

BIBLIOTHEQUE DU PARLEMENT
LIBRARY OF PARLIAMENT



3 2354 00409 747 6

DATE DUE

APR 15 2005

Canada
Stan
Mine

GAYLORD

PRINTED IN U.S.A.

J

103

H7

1909

M5

A1

2m-10-A, Committee Reports
22
PROCEEDINGS 1909

OF THE

SELECT STANDING COMMITTEE

OF THE

HOUSE OF COMMONS

ON

MINES AND MINERALS

PRINTED BY ORDER OF PARLIAMENT



OTTAWA

PRINTED BY C. H. PARMELEE, PRINTER TO THE KING'S MOST
EXCELLENT MAJESTY

1909

[App. No. 5—1909.]

PROCEEDINGS
OF THE
SELECT STANDING COMMITTEE
OF THE
HOUSE OF COMMONS
ON
MINES AND MINERALS

PRINTED BY ORDER OF PARLIAMENT



OTTAWA

PRINTED BY C. H. PARMELEE, PRINTER TO THE KING'S MOST
EXCELLENT MAJESTY

1909

Index of Witnesses.

Mines & Minerals Committee.

-- 1909 --

Barlow, Dr. A. E. Mining Geologist, 38-42

Brock, R. W., Director of Geological Survey
46-51

Brock, R. W., Re existing Mining Laws 28-30

Clark, J. M., K. C. , Mining Lawyer, 42-46

Craig, B. A. C. , 36 - 37.

Haanel, Dr. , re existing mining laws.

Howatt, H. H., submitted synopsis of regulations
governing disposal of minerals
on various Dominion lands etc.
21-22.

Tyrrell, J. B., respecting present conditions of
mining laws and regulations
30-36

" " Communication from , 52-53.

TABLE OF CONTENTS.

	PAGE
1. Order of Reference.	5
2. Reports of Committee.	7
3. Minutes of Proceedings.	9
4. Minutes of Evidence and Discussions.	11
5. Communication from J. B. Tyrrell.	65

ORDER OF REFERENCE.

HOUSE OF COMMONS,

FRIDAY, February 26, 1909.

Ordered,—That the following members do compose the Select Standing Committee on Mines and Minerals:—

Messieurs Blondin, Burrell, Chisholm (Antigonish), Congdon, Conmee, Devlin, Goodeve, Gordon (Nipissing), Herron, Lanctôt (Richelieu), Loggie, Lortie, Macdonald, McCarthy, McCoig, McIntyre (Strathcona), McMillan, Maddin, Proyse, Rhodes, Smith (Nanaimo), Smyth, Stratton, Templeman, Turriff.—25.

And that the quorum of the said committee do consist of ten members.

Ordered,—That the said committee be empowered to examine and inquire into all such matters and things as may be referred to it by the House; and report from time to time its observations and opinions thereon; with power to send for persons, papers and records.

Attest,

THOS. B. FLINT,

Clerk of the House.

TUESDAY, March 9, 1909.

Ordered,—That the name of Mr. Gordon (Nipissing), be substituted for that of Mr. Boyce on the said committee.

Attest,

THOS. B. FLINT,

Clerk of the House.

TUESDAY, March 16, 1909.

Ordered,—That the said committee have leave to sit while the House is in session.

Attest,

THOS. B. FLINT,

Clerk of the House.

THURSDAY, April 22, 1909.

Ordered,—That the quorum of the said committee be reduced from ten to seven members.

Attest,

THOS. B. FLINT,

Clerk of the House.

THURSDAY, May 13, 1909.

Ordered,—That the Summary Report of the Geological Survey Branch of the Department of Mines for the calendar year 1908, be referred to the said committee.

Attest,

THOS. B. FLINT,

Clerk of the House.

REPORTS OF THE COMMITTEE.

FIRST REPORT.

TUESDAY, March 16, 1909.

The Select Standing Committee on Mines and Minerals beg leave to present the following as their First Report:—

Your committee recommend that they be given leave to sit while the House is in session.

All which is respectfully submitted.

JAMES CONMEE,
Chairman.

(Concurred in by the House, March 16).

SECOND REPORT.

THURSDAY, April 22, 1909.

The Select Standing Committee on Mines and Minerals beg leave to present the following as their Second Report:—

Your committee recommend that their quorum be reduced from ten to seven members.

All which is respectfully submitted.

JAMES CONMEE,
Chairman.

(Concurred in by the House April 22).

THIRD REPORT.

TUESDAY, May 18, 1909.

The Select Standing Committee on Mines and Minerals beg leave to present the following as their Third Report:—

Your committee is of opinion:—

1. That there should be assigned to the Mines Department the administration of mines, including the issue of title thereto, and of all mining laws.

2. That an Act should be passed consolidating all the laws relating to mines under federal control.

3. That consideration should be given to a policy which will have for its object the re-acquisition by the Crown of mining rights heretofore granted in patents of land.

Your committee recommend that leave be granted to them to have all their proceedings and the evidence taken by them, printed, and that Rule 72 be suspended in reference thereto.

All which is respectfully submitted.

F. T. CONGDON,
for Chairman.

Third and fourth paragraphs concurred in by the House.

MINUTES OF PROCEEDINGS.

HOUSE OF COMMONS,

TUESDAY, March 16, 1909.

The Committee met at 11 o'clock a.m.

Present:—Messrs. Chisholm (Antigonish), Congdon, Conmee, Lanctôt (Richelieu), Loggie, Maddin, Rhodes, Smith (Nanaimo), Stratton, Templeman and Turriff.—11.

On motion of Hon. Mr. Templeman, Mr. Conmee was elected chairman of the committee.

On motion of Mr. Maddin, it was

Ordered, That the next meeting be devoted to the discussion of the question of jurisdiction of the Department of Mines as well as other questions relating to the organization thereof.

On motion of Mr. Templeman, it was

Ordered, That a report be made to the House recommending that leave be granted the Committee to sit while the House is in session.

The Committee then adjourned to the call of the chair.

JAMES CONMEE,

Chairman.

TUESDAY, March 30, 1909.

The Committee met at 4 o'clock, p.m.

Present:—Messrs. Conmee, Chairman; Blondin, Chisholm (Antigonish), Congdon, Herron and Smyth.—5.

The minutes of last meeting were read and confirmed.

Mr. H. H. Rowatt of the Mines Branch of the Interior Department submitted, for the information of the members of the Committee, a synopsis of regulations governing the disposal of minerals on Dominion lands in Manitoba, Saskatchewan, Alberta, the Northwest Territories and the Yukon Territory, viz. respecting quartz mining regulations, coal mining regulations, domestic coal, coal Rocky Mountains Park, coal sales, petroleum and natural gas, placer mining Act, placer mining regulations, dredging regulations, Yukon; dredging regulations, western provinces and territories; hydraulic regulations.

Dr. Haanel, Director of Mines and R. W. Brock, Director of the Geological Survey, who were requested to attend the meeting, gave information relative to the existing mining regulations.

On motion of Mr. Chisholm (Antigonish), it was

Ordered, That the Clerk of the Committee communicate with the President of the Canadian Mining Institute, intimating to him the Committee would be pleased to have one or two representatives of the Institute attend the next meeting of the Committee.

The Committee then adjourned to the call of the chair.

JAMES CONMEE,

Chairman.

8-9 EDWARD VII., A. 1909

THURSDAY, April 22, 1909.

The Committee met at 0 o'clock, p.m.

Present.—Messrs. Conmee, Chairman; Blondin, Burrell, Congdon, Goodeve, Gordon (Nipissing), Herron, Loggie, McCarthy, Maddin, Rhodes, Smyth, Stratton and Templeman.—14.

The minutes of the last meeting were read and confirmed.

Messrs. J. B. Tyrrell and B. A. C. Craig of Toronto, and Dr. A. E. Barlow of Montreal, representatives of the Canadian Mining Institute were present and made statements regarding the mining laws, &c. The foregoing at the request of the Chairman, promised to furnish the Committee with a written statement embodying their views with respect to certain deficiencies in the existing mining laws and regulations.

Messrs. R. W. Brock, Director of the Geological Survey, and J. M. Clark, K.C., Toronto, were also present and gave their views regarding the mining laws, &c.

On motion of Honourable Mr. Templeman, it was

Ordered, That a report be made to the House recommending that the quorum of the Committee be reduced from 10 to 7 members.

On motion of Mr. Rhodes, it was

Ordered, That at the next meeting the Committee take up the mining regulations and the mining law affecting the Yukon and consider section by section with a view to reporting to the House as to the advisability of making such changes as are necessary or of drafting a uniform mining Act.

The Committee then adjourned to the call of the chair.

JAMES CONMEE,
Chairman.

MONDAY, May 17, 1909.

The Committee met at 4 o'clock, p.m.

Present.—Messrs. Conmee, chairman; Burrell, Congdon, Goodeve, Herron, McIntyre (Strathcona), Rhodes, Smith (Nanaimo), Stratton and Templeman.

The minutes of last meeting were read and confirmed.

The Chairman submitted a communication from Mr. J. B. Tyrrell suggesting the enactment of mining laws best suited to encourage the exploration and development of the mineral resources of Canada. (Printed on page 65.)

The Chairman read a memorandum recommending the preparation, during recess of parliament, of a statute embodying certain provisions for the regulation of the sale or lease of mining lands and rights.

On motion of Mr. Smith (Nanaimo), it was

Ordered, That the proceedings and the evidence taken before the Committee be printed.

On motion of Mr. Congdon, it was

Ordered, That the following be reported to the House:

1. That there should be assigned to the Mines Department the administration of mines, including the issue of title thereto and of all mining laws.

2. That an Act should be passed consolidating all the laws relating to mines under federal control.

3. That consideration should be given to a policy which will have for its object the re-acquisition by the Crown of mining rights heretofore granted in patents of land.

The Committee then adjourned, *sine die*.

JAMES CONMEE,
Chairman.

MINUTES OF EVIDENCE AND DISCUSSIONS.

HOUSE OF COMMONS.

TUESDAY March 16, 1909.

The Committee met at 11 o'clock, a.m.

The CHAIRMAN (Mr. CONNIE).—Gentlemen, I am very much gratified at the honour of being made chairman of this important committee. I might just say that there is no committee of the House, which has been appointed in recent years, that, in my opinion, has a greater opportunity for usefulness than has this committee. I am not going to discuss that question now more than to say that Canada possesses a greater area bearing the economic minerals than do all the great nations of Europe. As to how far we have made use of that great asset you all know, it seems to me that the development of our mining industry is in its infancy and that there is a great opportunity before this committee to make itself useful in assisting the minister who has been recently appointed to preside over the Mines Department. We have had a Bureau of Mines and a Geological Department for some years and now we have a Department of Mines and I am quite sure that it is the desire of the minister to do the very best that he possibly can, and if the proper sympathy exists between the mining interests and the head of the department and the government of the day, whether it be Liberal or Conservative, it will no doubt give a great impetus to mining in this country. One of the things I hope will not be lacking is that sympathy which should exist between the governing body and the interests involved. We see how well it has worked in trade and commerce and in agriculture and there is still a greater field for it in regard to the mining interest, and I trust and hope that the appointment of this committee will lead to greater activity in mining and more confidence in the industry in this country.

Mr. MADDIN.—I would like to have the resolution appointing the committee read in order that we may see how many members are on it.

(Resolution read by clerk.)

Hon. Mr. TEMPLEMAN.—What is the quorum?

The CLERK.—Ten has been fixed as the quorum by the House; I think that should be reduced because it will probably be very difficult at times to get ten members present.

Mr. MADDIN.—We have not a quorum now, we have elected a chairman, but we have only eight members present now—had we not better fix the quorum at seven.

The CLERK.—The number necessary to form a quorum is fixed by the House.

The CHAIRMAN.—How would it be to try to get along with ten, and if we cannot get ten members to attend we can request the House to reduce the quorum.

Hon. Mr. TEMPLEMAN.—I am sure, Mr. Chairman, every member of the committee will reciprocate the sentiments you have expressed in respect to the mining prospects and the mining future of Canada; and that they recognize the necessity for a committee of this kind, particularly in view of the fact that there is a Department of Mines in existence in Canada. I might say that I am quite certain there is a very strong feeling of sympathy and co-operation between the mining interests of Canada, as represented by the Canadian Mining Institute which is a very represen-

8-9 EDWARD VII., A. 1909

tative body, and the Department of Mines at the present moment. We have received during the last year or two a great deal of assistance from the Canadian Mining Institute and from prominent officers of that institution. As a department we have tried to co-operate with them and further their interests in every way in our power. At a recent meeting in Montreal the Mining Institute passed a resolution, which I received yesterday—I am sorry I did not bring it with me—in which they are memorializing the government to appoint a Royal Commission to investigate the mining resources of Canada. It occurred to me that the functions of such a commission—the appointment of which I hardly think will be entertained this session at all events—that the functions of such a commission might be very well taken up by this Committee on Mines, which is now being constituted, and which will very largely do the work which would be done by such a commission.

They also passed another resolution which this committee will have to consider, I think, some time during this session; that is the complete organization of the Department of Mines. When the department was created a couple of years ago we followed the line of least resistance and did not include in the department all the branches on mining connected with the different departments; there is still within the department the control of the regulations and the administration and creation of mining laws. It seems to me that the department will not be complete until this branch is included. There was also another recommendation by the Canadian Mining Institute which I think ought to and will receive the consideration of this committee, that is that there should be a general mining law for Canada; that all the present mining Acts and regulations and orders in council which control and govern the mines under the jurisdiction of the Canadian government, which appertain of course to the Yukon, the provinces of Alberta, Saskatchewan, Manitoba and the northern territories, under the jurisdiction of this government—

The CHAIRMAN.—And also I suppose the Indian lands in the other provinces.

Hon. Mr. TEMPLEMAN.—The Indian lands in the railway belt and probably the Indian lands in the other provinces—I am not sure as to the jurisdiction there—there is jurisdiction in the railway belt, British Columbia—

The CHAIRMAN.—And the Indian lands in Ontario for instance?

Hon. Mr. TEMPLEMAN.—Yes, the mining laws govern in all property owned by the Crown as represented by the Dominion. There is a necessity for a general Mining Act. It has been urged by mining men that the regulations and orders in council ought to be consolidated and placed in an Act which is not subject to change, and thereby greater stability would be given and that if there is a fairly good Act put upon the Statute Books probably the provinces from time to time would try to assimilate their laws to the laws of the Dominion so that men who are engaged in mining would the more readily understand the various mining laws that are in force in the Dominion. This indicates to me a lot of very valuable work that the committee may take up in the very near future—at the next meeting say. There are, no doubt, many other things that you will have to deal with, I have just suggested these because they have been brought to my attention by the Mining Institute and that great body, composed of 800 or 900 men all over Canada who are mining engineers, mine owners, capitalists who have invested in the mines—the assistance of these people will be invaluable to this committee, and I am sure they will do everything they can to further the aims we have in view. I am very glad this committee has been formed because I know that it will be of great value to the Department of Mines which we are trying to place on the best possible footing.

Mr. MADDIN.—I would like to ask if the committee will have the services of any members of the Mines Department at its disposal during its sessions?

Hon. Mr. TEMPLEMAN.—Every official in the department is at the service of this committee to give evidence or to do anything to assist in the work it has in hand.

APPENDIX No. 5

Mr. STRATTON.—Which branch do you think this committee might best apply itself to first—the consideration of the law?

Hon. Mr. TEMPLEMAN.—I think so. That is a question which requires very careful study.

Mr. STRATTON.—Of course it would be of great assistance if you would put one of your officers at work on the laws of the various provinces and of the Dominion, so that they can go over the different laws and see where they disagree. That will assist us in arriving, as you suggest, at one law which will be followed as far as possible by the different provinces.

Mr. CONGDON.—What you can do in respect to that is to have one Mining Act in which the provisions would be applicable to all the various districts in the country with variations to meet the requirements of each section because it will be impossible to make a mining law which will be entirely applicable to the whole of Canada. I have had some experience in connection with the framing of the mining laws of the Yukon. One thing that strikes us in examining the mining laws of the various countries is that probably there are no worse laws in the world than those which apply to mining. The reason for this is that usually they are framed in a hurry under circumstances such as arose in the Yukon and Cobalt which requires it to be done hastily; it had better be done even hastily and poorly than to be postponed until it can be thoroughly considered. As a rule men who know the least about mining and about mining laws appear to be usually selected to draft the laws. With regard to the mining side of the question it seems to me to be utterly absurd to divorce the practical and the scientific side of it. The scientific results of your department can only be the product of the practical experience in connection with the department and I think every one must realize that the Department of the Interior has enough work to do apart from mining, to justify the handing over of the whole mining work of the country to one minister and one department. But with respect to the preparation of a Mining Act, no half dozen men could get to work and in a year frame a Mining Act that would be satisfactory.

Hon. Mr. TEMPLEMAN.—All that you could hope to do would be to start on it at the next meeting.

Mr. MADDIN.—I understand that this committee was the outcome of an arrangement between the Rt. Hon. the leader of the government and the leader of the opposition which grew out of the resolution having for its object the conservation of the resources of Canada.

The discussion on that resolution was curtailed by the Rt. Hon. the leader of the government entering into an agreement with the leader of the opposition that in order to conserve the mineral resources, the fishery resources and the lumbering and water-power resources of the country it would be wise to add three additional committees to the standing committees of the House, and the rules of the House were amended in order to permit of that being done. This is one of the committees which has been appointed as a result of that compact entered into between the leader of the government and the leader of the opposition. If my premises are right I presume that one of the objects of this committee, one of its principal objects will be to take such steps as they shall deem most expedient for the preservation of the mines and the mineral resources of the country. Of course it would not be extraneous to that or foreign to it, to consolidate and bring the mining regulations and the mining laws of the country down to date and to make them uniform, in so far as it can be done, but I think that the opening up of our mineral resources and the getting them into accessible shape should also be one of the chief aims of this committee. I think that the objects of the committee will be served by taking some steps first of all to tabulate our resources as they are known to us up to the present time, and to see to what extent they have gone beyond the control of the government; to see what resources are still under the control of the government and what probable resources the country has that have not yet been handled

8-9 EDWARD VII., A. 1909

or developed. For instance, the building of the National Transcontinental Railway is opening up a large stretch of country to some extent rich in coal, in oil and in gas. Further west, beyond the passes of the Rocky Mountains in the province of British Columbia it is presumed that this railway will open up country affording opportunities to the prospector in the richer metals, gold and silver. I do not know but what it may be the duty of this committee to recommend the appointment of some one to follow with the engineering staff of this railway, or with the contractors for this railway, where cuttings and borings are being made in order to tabulate and keep a record of the result of these operations. Also to follow the geological formation of the country passed through by the railway cuttings and by the borings to be done by the contractors, and by testing them and making a record of their observations for the government. Then the prospectors who intend to follow that line of business would have some valuable data that would direct them in their searches for further minerals. Apparently, Mr. Chairman, that is the principal object for which this committee was appointed. However, there is no doubt that the committee, acting on the suggestions from the Canadian Mining Institute, as pointed out by the minister, can accomplish a great deal for the benefit of the mining industry of the Dominion of Canada as a whole. I fully appreciate the importance of that organization, made up as pointed out by the minister of an influential and intellectual body of men, the majority of whom have made a special study of the mineral resources of the country, but I take it that the paramount object of the committee will be to take such steps as may be deemed necessary to conserve the resources of the country, as we know them to exist, and I suppose it will follow as a matter of course that we should endeavour to tabulate and record the nature of these, and the extent of them, and have those records accessible to the mining interests of the country.

The CHAIRMAN.—I certainly feel that it is open to the committee to take such action as in the judgment of the committee may seem best for conserving the resources of the country or for utilizing them and also assisting those who are engaged in the mining industry. I would like to ask the minister—I was impressed with the remarks which he made in regard to the Mining Institute, which is certainly a body of men, who have devoted a great deal of time and attention to the subject, and who no doubt will be able to give this committee a good deal of information and assistance—but there is also a Mining Institute of Ontario, I am not aware that there are mining institutes in any of the other provinces, I know there is one in Ontario——

Mr. MADDIN.—There is one in Nova Scotia also.

Hon. Mr. TEMPLEMAN.—They are, I think, subsidiary to the Canadian Mining Institute, there is one in British Columbia which is also subsidiary.

The CHAIRMAN.—Well, there is one in Ontario which was established before the Canadian Mining Institute.

Hon. Mr. TEMPLEMAN.—You are referring to the Ontario Mining Department, are you?

The CHAIRMAN.—No, to the Mining Institute of Ontario, which was established before the Canadian Mining Institute.

Hon. Mr. TEMPLEMAN.—I think there is no doubt that it is affiliated with the Canadian Mining Institute.

Mr. MADDIN.—I think it was originally called the Canadian Mining Society, when the late B. T. A. Bell was president of it 20 years ago.

The CHAIRMAN.—What I am leading up to now is whether it is the intention of the Minister of Mines that we should receive representations or information from any important body of mining men on any subject which they deem of sufficient importance to bring before this committee.

Hon. Mr. TEMPLEMAN.—I certainly think so.

APPENDIX No. 5

The CHAIRMAN.—I think it will be well to have that impression go abroad that the committee is willing to listen to such representations.

Mr. MADDIN.—In fact the committee will be depending to a large extent on suggestions from such bodies.

The CHAIRMAN.—Well, the committee is here to consider them, and I would think that would be one of the functions of the committee in general.

Mr. STRATTON.—You have had a good deal of experience in such matters yourself and I would think that what we ought to do, now that the committee has been organized, is to get to work on some definite and well defined plan. If we could have, as suggested a moment ago, some officer of the department appointed by the minister, a capable person, who would go over the different mining laws, as they exist at present, and see how far we could have a general law, as suggested by the honourable member for the Yukon, that would assimilate the provisions of the law in the different provinces, or that would be arranged so as to allow the different provinces to work under it and through it. Then we could take up some other matters and get details brought before us which would perhaps give us information upon which to work in connection with some of the other suggestions which have been made. For instance, there is a general feeling that while there has been a Geological Department at Ottawa it has been more or less useless so far as being of any advantage to the mining business of Canada; that it has not been of the practical usefulness that it was expected it would be.

Mr. CONGDON.—I would like to ask the minister if he thinks it desirable to endeavour to get a conference with the different provinces with the view to securing, to a certain extent at all events, uniform laws. Although it is impossible to get them entirely uniform it would be of enormous advantage if the backbone, so to speak, of the legislation with regard to mining, was similar throughout the Dominion. There is one matter especially that is worthy of consideration; take the Yukon, for instance, occasionally a geologist comes in there, he spends the summer there, but he will not tell any one that he has discovered anything. About two years later we discover in some report that he has found something that is valuable—after the information has absolutely ceased to be of any value to any one. It seems to me that one of the most important things to be done in that connection would be to have one man in your department whose duty it would be to collect all the information in regard to that particular section of the country, who would spend most of his time in that country and who would not wait for the publication of his report before giving out any information, but who would publish it as he goes along. Then it would be of some use to the people for whom it is intended. My own experience of geologists is that they are so infernally careful of their reputation that they are of no use to themselves or any one else and that is the case with mining experts generally as a rule. They are very careful about making any definite statements that there is mineral of value there, it does not hurt a man's reputation if, after he has reported adversely, a property should turn out to be of some value but if he should report favourably and it should not turn out to be valuable it would injure his reputation. The whole of those geologists who have gone out from the department are so frightened of their reputations that they will not give out any information until they get back here and spend a considerable amount of time in eliminating every valuable feature from their report until they get something so common place that when it is published it is no good to anybody. I believe that in the Yukon, say, if there was a man of experience in the rock mining industry sent in there and allowed to remain there and to give out information to the people, and I believe the same is true of other sections of the country, such a man would be of invaluable service to the mining industry; more valuable than all the other portion of the Geological Department has been. I would call attention to the valuable work of Mr. A. H. Brooks of the United States staff last

8-9 EDWARD VII., A. 1909

year in the American territory. Although he was working in the American territory he has done more good to the Yukon territory than all the men we have had in there, simply because his life is devoted to pointing out the value of the resources of the northern country, and of course there is not much difference between the Yukon and Alaska.

Mr. MADDIN.—There will be difficulty in having uniform laws, because each province legislates for itself and the laws which are necessary in one province might not work in with another.

The CHAIRMAN.—I think, perhaps, now that we are organized, we had better take these matters up, if we can, in some systematic manner. We must start on something and we will have to arrange for meetings. What days of the week will it be convenient for us to hold our meetings? I think the most important thing for us to take up first is to get the Department of Mines really established; to give such assistance to the minister that he will be able to give us the information as to how far the question of dealing with mines and metallurgy in all its bearings is under the control of the Minister of Mines; and not only the minerals but the lands, the laws, the regulations and the general application of these matters. I understand that the control is now spread among different departments, I know for a fact that it is spread over three departments, and it may be more. The Department of the Interior has control of certain portions of the land, the Indian Department deals with other lands and we have the Geological Department, or the new Department of Mines, I suppose we may call it; and all these matters are indefinite, and I think the first work we can take up to advantage would be to make some recommendation, as far as this committee can to solve the question, as to what shall be the jurisdiction of the Department of Mines, and what are the public interests to be dealt with. Then of course as to the regulations, the minister and his staff will arrange these matters, I presume, themselves. The gentleman from the Yukon (Mr. Congdon) has given us some very good advice this morning. There is no doubt but that it is going to be a difficult task to make a uniform law and for various reasons. In this country our mining, speaking generally, is quartz mining and the geological conditions under which we find the economic minerals, the valuable minerals, are not the same all over. It varies in every district, and varies to a considerable extent even in a small area. (In fact one may say, and with a good deal of truth, that it varies more or less in each occurrence, that in each vein, bent or deposit.) It is not the mineral that we find in the quartz or accompanying rocks that is of value to the country, it is the minerals that we can get out of that quartz, that which we can save, that is of value and therefore if we are making a law we have to bear in mind that the experience has been, not only in Canada, but all the world over, that the problem we have to solve is the separation of the economic minerals from their native quartz and in this country we have to take into consideration what are the different formations in which these minerals occur and in what section of the country we find them. For instance in one section we may find them in contact with granites or schists, in another in the Huronian formation, it is just so not only with the basic minerals but with other classes of minerals as well, we find them in a certain formation and in different combinations and we find that they differ somewhat here to what they do in any other country and our country is so vast that they differ very largely in various sections of the country. We in Canada cannot get, at least that is my idea, experts from foreign countries that can come here and solve these questions for us because of their experience and knowledge gained in any other country; that is a help, that is a great benefit, that is a foundation, but it does not meet our requirements. Our own people are not yet perhaps as well educated or as well qualified to grapple with this subject as they will be later on. My view is that it is not in the geological scientific works of the past that we will find the solution for a great many of the problems that will confront us, but it is by working them out by our own energies and whatever genius we possess. That will be something that will

APPENDIX No. 5

meet us when we come to draft the law and to apply it in a general sense. I do not mean to say that we cannot make a law that will be uniform in very many of its provisions, but we will have to give a good deal of consideration, I fancy, when we come to deal with the subject, even if we were experts in it, to the varying conditions in the different sections of the country in which minerals do occur. I would suggest that, with the approval of the committee, at our next meeting, we take up the question of the jurisdiction of the Department of Mines.

Mr. MADDIN.—And that the minister will bring us all the orders in council and all the legislation in the way of mining laws in connection with the Department of Mines.

The CHAIRMAN.—I do not think that the question of jurisdiction would cover the mining law, but of course it might more or less involve the consideration of that.

Mr. MADDIN.—We might have all that here.

Hon. Mr. TEMPLEMAN.—The work of the Department of Mines does not at present include the administration of the mining law.

The CHAIRMAN.—I know that, but it is our duty to see that it does.

Hon. Mr. TEMPLEMAN.—All mining laws originated with the Department of the Interior and are administered by that department. The question of uniting that branch of the Department of the Interior with the Department of Mines at the time this Act was passed was considered, but it was found that if we wanted to pass an Act that session—that was two sessions ago—difficulties would be encountered, and I thought it was better to get the Act on the Statute Book and look for consolidation later. The Act as it is framed, covers everything relating to mining and requires no amendment. We could have here at our next meeting officials who can explain to us what their work is. I think that is a good work for the committee to take up at our next meeting. The Department of Mines, I might say, has already done something along the line of the Grand Trunk Pacific. We have had men following the construction of the Grand Trunk Pacific obtaining information. Mr. Congdon's strictures on the Geological Survey apply, I think, more particularly to what the Geological Survey used to be than to what it is now. The Geological Survey of to-day is devoting all its energies to the economic side of geology with a view to assisting and encouraging the mining industry of Canada, and we are sending parties only to those sections of the country where mining is either progressing or where good prospects have been found. There is a difficulty in geologists or any official of the government, going out purely as officials to obtain information and giving that information to the public. No member of the staff can give any information to the public unless by permission, and we find we are up against this difficulty that very often private interests desire to have the advice of the geologist who has been examining a certain section of the country. I remember an instance where Dr. Ellis, who was on Queen Charlotte Island examining the coal formation, and Mr. Leach in the Telqua Valley, exploring the coal formation, and private interests wanted to secure land there, were very anxious to secure information before the reports were published. I am bound to admit that the criticisms respecting the delay in issuing reports is well taken; there has been at times too much delay; the geologists are out on the survey all the summer and return in the fall, and in the winter they do their work in Ottawa writing the reports and preparing maps and plans, because all the country, so far as the surveys have taken place, is being mapped out geologically. That work takes them all the winter.

Mr. CONGDON.—And when they are published they are thrown somewhere where nobody ever sees them.

Hon. Mr. TEMPLEMAN.—My instructions are very explicit that these reports must be given to the public as quickly as possible. That is a matter with which this com-

8-9 EDWARD VII., A. 1909

mittee may possibly have something to do. If you desire we can have here the chief officers of my department, Mr. Brock, head of the Geological Surveys Branch, and Dr. Haanel, Director of Mines Branch and the Secretary of the Mines Branch of the Department of the Interior; he is not in my department, but I will ask Mr. Oliver to send him here. I think that will be ample work for the next meeting.

Mr. CONGDON.—I would like to ask the minister if, in his opinion, the instructions to withhold all information given to men sent out by the department does not defeat the very object for which the man is sent out, because the result is this, that in 999 out of 1,000 cases he will say that he knows nothing about it when asked although he could give the information, if he were permitted to do so at a time when it would be of advantage. If the information was open to the public as soon as the official obtained it then there could be no objection, because all would be on the same footing. I do not know of any good objection to a geologist who comes into a district and discovers minerals making it public at once. There would be greater safety for him to give that information to the public instead of giving it privately to a friend.

Hon. Mr. TEMPLEMAN.—We will strictly object to any officer giving information quietly to a friend. I have asked the officers of the department to prepare a preliminary report and give it to every person at the same time, and we have published reports in the press respecting the coal formations in the Queen Charlotte Islands far in advance of the publication by the department, but in that case it went to the whole public and not to any individual or any company. Supposing we had a geologist surveying in the mountains where we know there are unlimited coal deposits and he obtained valuable information and he gave it say, to some promoter of a company a month in advance of giving it to the public; the company would come in and corral all the coal area in that particular district. We could not administer the department on those lines at all. Whatever information is given must be given either through the press or by circulars to the public, all at the one time.

The CHAIRMAN.—Your idea is that we take up at the next meeting what may be termed the general jurisdiction of the Department of Mines? Will some one move that the next meeting be devoted to the discussion of the jurisdiction of the Department of Mines, that will involve the question of laws, regulations, &c.

Mr. MADDIN.—I move that the next meeting of the committee be devoted to the discussion of the question of the jurisdiction of the Department of Mines as well as to other questions relating to the organization thereof.

Motion carried.

Committee adjourned to meet at the call of the chair.

TUESDAY, March 30, 1909.

The Committee met at 4 o'clock, p.m.

The CHAIRMAN.—I may say, gentlemen, that a motion was made and passed in the House giving us the privilege of sitting while the House is in session. On the motion of Mr. Maddin I believe that Mr. Rowatt, secretary of the Mines Branch, has been asked to come over and bring with him certain orders in council and regulations and laws affecting mining as they have them in that branch. Perhaps Mr. Rowatt will give us the information he has.

H. H. ROWATT.—I have prepared a half dozen sets of our regulations. At the beginning you will find a synopsis of the regulations and on the cover a list of the subjects.

APPENDIX No. 5

The CHAIRMAN.—This is a sort of digest I suppose?

Mr. ROWATT.—Yes, all the regulations are here. These are all the regulations we have.

The CHAIRMAN.—Have you any statutory enactments?

Mr. ROWATT.—Yes, one only, the Yukon Placer Mining Act, and it is here also.

The CHAIRMAN.—No general Act?

Mr. ROWATT.—No.

Mr. WILLIAM CHISHOLM.—To what do these regulations refer?

Mr. ROWATT.—They refer to quartz mining, coal mining, both domestic and coal sales, coal leases, petroleum and natural gas, the Placer Mining Act, placer mining regulations, dredging regulations in the Yukon, dredging regulations in the western provinces and territories and hydraulic regulations.

Mr. Wm. CHISHOLM.—Has Manitoba the control of her own mines?

Mr. ROWATT.—Manitoba, Saskatchewan and Alberta, the Northwest Territories and the Yukon Territory do not control their mines. They are controlled by the federal government.

The CHAIRMAN.—I think perhaps it would be interesting for the committee to hear this digest read. Perhaps the clerk will read it.

The CLERK reads:—‘Short synopsis of regulations governing the disposal of minerals on Dominion lands in Manitoba, Saskatchewan, Alberta, the Northwest Territories and the Yukon Territory.

QUARTZ MINING REGULATIONS.

Any person 18 years of age or over who has discovered mineral in place may locate and obtain entry for a claim 1,500 feet in length by 1,500 feet in breadth. A legal post at each end of the claim on the lines of the lode or vein should be planted and properly marked, the line joining them being cut out. Work on the claim to the value of \$100 must be done each year, or that amount paid, and a certificate obtained. Survey accepted as work for one year. When \$500 worth of work has been done or paid, a survey made, and certain other requirements complied with, a Crown patent may issue on payment for the land at \$1 an acre.

COAL MINING REGULATIONS.

The coal mining rights under an area of 2,560 acres may be leased for a period of 21 years renewable for an additional term of 21 years, at a rental of \$1 an acre per annum. In surveyed territory a description by sections is necessary, in unsurveyed territory the tract must be staked out. A royalty of 5 cents per ton on the merchantable output is collected. The same area of coal mining rights in surveyed territory may be reserved for an applicant for a period of two years to prospect thereon for coal, upon payment of a fee of \$100. The applicant must expend each year in prospecting operations by recognized methods the sum of at least \$1 an acre in connection with the rights reserved for him. If he complies with the regulations he is considered the first applicant for a lease.

PERMITS TO MINE COAL FOR DOMESTIC PURPOSES.

An applicant may stake out an area not exceeding three acres by placing a post at each corner. Rental \$5 an acre per annum and royalty from ten to twenty cents per ton. Permit renewable yearly.

8-9 EDWARD VII., A. 1909

COAL MINING RIGHTS IN THE ROCKY MOUNTAINS PARK OF CANADA.

A lease may be obtained of not less than 160 acres and not more than 640 acres of coal mining rights in the Rocky Mountains Park. Term of the lease 20 years; rental \$1 an acre per annum, and royalty 5 cents per ton.

REGULATIONS GOVERNING THE SALE OF COAL MINING LANDS.

Formerly an applicant might purchase 320 acres of coal mining lands at the rate of \$10 for surface and under rights, and \$7 an acre for coal mining rights only. These regulations were rescinded in March, 1907.

PETROLEUM AND NATURAL GAS REGULATIONS.

The minister may reserve for an applicant who has machinery on the ground to be prospected an area of 1,920 acres in a compact block for such period as may be decided upon. If oil in paying quantities is discovered the discoverer may purchase the surface and petroleum rights of the above area at a price varying from \$1 to \$3 an acre. If the surface rights have been disposed of the petroleum rights only are conveyed and the operator must arrange with the surface owner. A preliminary reservation may also be made of the petroleum rights under a like area for a period of four months to enable applicant to install machinery. Fee \$100.

YUKON PLACER MINING ACT.

Any person 18 years of age or over may stake out and obtain entry for a placer mining claim 500 feet long and varying from 1,000 to 2,000 feet wide. The ground should be marked by two legal posts. Work to the value of \$200 must be done on the claim each year and a certificate obtained. Annual fee \$10. Adjoining claims may be grouped for operation. The owner of a claim is entitled to the seepage water and the use of so much water naturally flowing through or past his claim and not already appropriated as may be necessary to work the ground. On all gold shipped from the Yukon Territory a royalty of two and one half per cent of its value is collected.

REGULATIONS GOVERNING PLACER MINING IN MANITOBA, SASKATCHEWAN, ALBERTA AND NORTH-WEST TERRITORIES—APPROVED BY ORDER IN COUNCIL DATED FEBRUARY 8, 1909.

The provisions of these regulations are similar in most respects to those of the Yukon Placer Mining Act. The fees charged and the representation required are less.

DREDGING—YUKON TERRITORY.

The minister may grant the exclusive right to dredge for gold, silver and platinum in ten continuous miles of a river. Rental \$100 per mile for the first year and \$10 for each subsequent year. Term 15 years, renewable. Within three years from the date of the lease a dredge must be installed and worked 40 days of 10 hours each in every year. Royalty two and one-half per cent on the gold shipped.

DREDGING IN RIVERS OF MANITOBA, SASKATCHEWAN, ALBERTA AND THE NORTHWEST TERRITORIES.

The minister may grant the exclusive right to dredge for minerals in ten miles of a river. Rental \$10 a mile per annum. Term 20 years renewable. Lessee shall have

APPENDIX No. 5

one dredge in operation for each fifteen miles or portion thereof within one season. Royalty two and one-half per cent on output after it exceeds \$10,000.

HYDRAULIC REGULATIONS.

Formerly an applicant might obtain a lease of the mining rights under an area of five square miles provided it was shown that the tract was not suitable for placer mining, that there were no mining operations on or in the vicinity of the tract, and that there was an available supply of water and available dumping ground. Rental of \$150 for each mile of frontage. Machinery to be installed within one year and not less than \$5,000 expended in mining operations each year. These regulations were rescinded in February, 1904. Applications for lands for stone quarrying, marl, gypsum, fire clay, sand, asphalt, marble, brick and all other such purposes are dealt with upon their merits.'

The CHAIRMAN.—That is the whole of this digest and I suppose it also covers the statutory enactments referred to?

Mr. ROWATT.—Yes, sir.

The CHAIRMAN.—If there is no discussion on that I have a resolution here. A number of copies were sent to me but I do not happen to have them with me to-day. However, I have a copy here and I may read it. I may say it is a resolution which was passed by the Mining Institute at its recent meeting in Montreal and in which they memorialize the government to take certain action. The resolution reads as follows:—

'That the Canadian Mining Institute in annual meeting assembled instructs the council to appoint a standing committee to urge upon the government the necessity of early action with regard to the following resolution passed by the annual meeting held at Ottawa in March, 1908. 'Whereas in view of the increasing importance of mines and mineral lands subject to the jurisdiction of the Dominion parliament, be it therefore resolved that the Canadian Mining Institute in annual meeting assembled do hereby memorialize the Dominion government to appoint a Royal Commission to secure evidence concerning the requirements of the mining industry in this regard, and to draft mining laws to be submitted for the consideration of the Dominion government. And as an argument in support of the appointment of such a Royal Commission, be it urged that when a statute to be enacted by the Dominion parliament declares with clearness, conciseness and certainty the laws relating to mines and mining under federal control, such a statute would, as far as local conditions permit, be followed by the various provincial governments, thus ensuring as far as practicable a uniform system of mining laws throughout the whole Dominion.

'2. That the Dominion government take early action to complete the organization of the Department of Mines by transferring to it the complete administration of all mining lands subject to its control.'

I think, gentlemen, that at our last meeting the view of the members then present was that this subject might be taken up at this meeting. So that now that this resolution has been read and we are here, I think the matter is open for discussion. What is your pleasure that we should do in regard to this question?

Mr. WM. CHISHOLM.—Does the resolution mean that the local governments should follow the legislation of the Dominion government?

The CHAIRMAN.—No, that is not the resolution.

Mr. W. R. SMYTH.—It suggests it does it not?

The CHAIRMAN.—This resolution suggests that the Dominion should pass a law that would be general in character that might be applicable to the whole Dominion, and that would give certainty and stability to mining investments. And they throw

8-9 EDWARD VII., A. 1909

out the suggestion that if we do succeed in passing such a law the provinces would probably adopt it and therefore it would become more uniform instead of merely applying it to the mining lands which are under federal control.

Mr. W. R. SMYTH.—Whoever undertakes that has his work cut out.

The CHAIRMAN.—No doubt it is a big question, but it is one with which this committee must grapple. I do not think there is any escape.

Mr. Wm. CHISHOLM.—But conditions are different in different parts of the country. Take for instance the maritime provinces. Take Nova Scotia. There the conditions are entirely different from what they are out west. In Nova Scotia the mining lands are controlled by the local government and it is not at all likely that they would adopt a law that would ensure uniformity.

Mr. CONGDON.—What they want is a model law for the territory covered by Dominion jurisdiction in the hope that if it is satisfactory the various provinces may adopt it.

The CHAIRMAN.—Of course there are a great many interests even in the provinces in coal mining, in gold mining, in quartz mining, in placer mining, that will be affected by a Dominion law, that is to say having regard to safety appliances for the protection of life and to the Criminal Code in the preservation of order in such territories. It must all come under Dominion jurisdiction so that any law we make will more or less apply to mining all over the Dominion. But the actual mode of mining and questions as to whether there should be a royalty or what should be paid for the mine or what their output should be—all those are matters over which the provinces have control.

Mr. JOHN HERRON.—Will the Dominion government be liable to accept any recommendation that this committee might make?

The CHAIRMAN.—I think the object of parliament in appointing the committee was to receive suggestions. The object was perhaps two-fold. First, to secure as far as the committee might be able to recommend some means of protecting the public interest, of conserving, you might say, mines or other natural resources that come under the heading of mining.

The CLERK.—The order says 'that the said committee be empowered to examine and inquire into all such matters and things as may be referred to it by the House and report from time to time its observations and opinions thereon with power to send for persons, papers and records.'

Mr. Wm. CHISHOLM.—The first thing then would be to have some evidence which would apprise us of the defects that exist in the present regulations. Is there any or much complaint in that regard? Perhaps Mr. Rowatt might be able to tell us something about that, whether there is anything inconsistent in the law or regulations as passed by the Dominion government, and in what respect these complaints exist. Are there real complaints?

The CHAIRMAN.—I think that is a part of our duty to find out.

Mr. JOHN HERRON.—I can say that the coal mining regulations have not been satisfactory to the miners nor I believe to the operators in Alberta until those last amendments. Whether they are agreeable or not I do not know.

The CHAIRMAN.—We have here to-day Dr. Haanel, who has some charge in connection with mining and who perhaps in moving around has gained some knowledge of whether the existing regulations are sufficient or whether there is dissatisfaction. I know myself there is considerable dissatisfaction.

Mr. W. R. SMYTH.—The dissatisfaction is from local causes chiefly.

The CHAIRMAN.—I would like to hear from Dr. Haanel.

Dr. HAANEL.—I have not made it a matter of study, but it seems to me quite evident that if the Canadian Mining Institute, which consists of miners from the

APPENDIX No. 5

various territories, takes the matter up it must be a very serious matter and there must be some basis of dissatisfaction. That is quite evident. Of course I cannot cite any special case, but it seems to me that perhaps the parties who have been interested in getting up that resolution might be cited as witnesses in order to give testimony why they passed that resolution and wherein the dissatisfaction consisted. One of the parties who urged that resolution is an eminent mining lawyer, Mr. Clark, of Toronto. I think if he were called here to give testimony he would convince you in a very short time that it was necessary that the mining regulations should be codified.

Mr. W. R. SMYTH.—Is that Mr. J. M. Clark?

Dr. HAANEL.—I do not know his initials but I know he is the author of a book on mining.

The CHAIRMAN.—I know the man very well. He is very well posted on mining.

Mr. W. R. SMYTH.—He may be posted on mining law but he does not know anything about mining.

The CHAIRMAN.—I suppose he knows no more about mining than the average lawyer who has looked into the thing. What is your pleasure we should do with this resolution of the Canadian Mining Institute which has been referred to us. That is the most important body of mining men assembled together in the country and I think their representations are not made without cause. I think they are worthy of very careful consideration by this committee. I would like to hear from the members what they think we ought to do.

Mr. CONGDON.—I think the first thing is that we are not going to recommend any Royal Commission. At the time that resolution was passed it was not known that a committee of this kind had been appointed. This committee can discharge the functions of a Royal Commission. In the next place an endeavour has already been made to get between two covers the laws relating to this. One of the defects in the regulations, and I think Mr. Rowatt will appreciate this, is that they are not so accessible as Acts of parliament. You can find Acts of parliament, but it is one of the hardest things to find these regulations that touch here, there and everywhere and one is never sure what amendments have been made. With regard to the laws they can easily be got, but necessarily, many of these regulations are somewhat primitive at the present time because under them no great mining operations have been carried on and laws relating to mining must grow very largely as the industry grows. It is useless to attempt to make mining conform to laws. The laws ought to conform to mining. I think by calling the attention of the Institute to the fact of the appointment of this committee and to the fact that the committee has got together all the regulations and all the laws relating to the subject and telling them that we would be pleased to hear at any time anything the Institute has to offer showing the direction in which those laws could be improved—that is about the only answer we could give. I think there is a more important matter even than this. Mining laws are always defective and we can never make them anything else. The only thing to do is to try and get them as perfect as possible. What this committee specially wants to know is the mining resources of Canada, the fields to which these laws are applicable, the work contemplated at the present time. The most desirable work which this committee could undertake is to endeavour to get together and to present to the world in a consolidated form the laws and also the fields for mining operation in the country.

The CHAIRMAN.—What have you to say to this last paragraph? "That the Dominion government take early action to complete the organization of the Department of Mines by transferring to it the complete administration of all mining lands subject to its control."

Mr. CONGDON.—I say with regard to that that it is a most difficult question because you must still maintain uniformity in regard to the lands under the Interior Depart-

8-9 EDWARD VII., A. 1909

ment. You must still leave in the Department of the Interior the right to deal with those lands as pure lands and one of the difficulties in connection with this question is that in retaining in the Department of the Interior the lands merely agricultural and passing over to another department the lands so far as mines are concerned you are divorcing the two and creating a bigger thing in that way.

The CHAIRMAN.—But why have you to leave the lands in the Department of the Interior? Are not all lands purchased under the Mines Act under the heading of **Mining Land**?

Mr. CONGDON.—You might make some provision of that kind, that when a certain thing occurs the land might be transferred to the Mines Department, but it would be difficult to say what lands should be transferred and what time they would be transferred.

Mr. W. R. SMYTH.—That is working out very satisfactorily in the province of Ontario. They have in the Department of Mines a Deputy Minister of Lands and a Deputy Minister of Mines.

The CHAIRMAN.—I do not agree with that. I do not think it ever worked well. I do not think it is working well.

Mr. JOHN HERRON.—In my country it is different. There is a great deal of coal land which is agricultural land.

The CHAIRMAN.—It is a question that will take some working out.

Mr. ROWATT.—I assume that what you have reference to is this, that the disposition of mines and mining lands be brought under the Department of Mines and that department will deal with them in a scientific manner after they become mines.

The CHAIRMAN.—That is the idea. .

Mr. ROWATT.—Our department, that is the Department of the Interior, is a department of lands, and the duty of the Department of the Interior is largely confined to disposing of lands. In the majority of cases it is not known where these mines are. The department after disposing of the surface to the Crown must necessarily dispose of what is underneath because when application is made for any mining rights it is necessary to consult the department in order to dispose of the surface. Looking at it in another way, minerals are of two kinds, base and precious. From all time in the Dominion federal lands have been disposed off with a reservation applying to gold, silver and platinum. Gold and silver are always reserved, but our department has issued 455,000 patents without making any reservation whatever. That is they convey to the person who obtains the lands all rights to them, the surface rights, the under rights, everything excepting of course the common law reservation of precious metals. Now, if an application is made for a patent the applicant must first consult the patents of our department in order to know whether the rights to the land are still vested in the Crown or whether some person by getting a patent for the surface has secured all the rights underneath with the exception of gold and silver.

Mr. CONGDON.—May I ask when these patents were issued?

Mr. ROWATT.—They have been issued since Confederation up to November 1, 1887. Our department is still issuing patents on the short form, that is reserving nothing to the Crown. Now when we receive an application we do not reserve any mineral excepting gold and silver.

Mr. CONGDON.—Are you issuing these in pursuance of rights arising prior to 1887?

Mr. ROWATT.—On mines before 1887. Suppose a discovery is recently made. The settler applies for a patent and suppose he was resident before 1887 he gets the short form of patent. It is impossible for us to know without examining all those patents what the rights of the Crown are in that land. Therefore you can see how closely

APPENDIX No. 5

the Mining Lands Branch is connected with the Interior Department. We are not the Mines Branch. It is a branch that is known as the Mining Lands Branch. That is, we dispose of Dominion lands. There is another branch for disposing of timber or grazing lands. They are simply a part of the same department and I can see it would be a difficult thing indeed to separate one branch of the Interior Department from another on account of the very close connection between them. I have had the pleasure of discussing this matter very fully with Mr. Templeman, and I think he was convinced that it could not be done.

The CHAIRMAN.—Why could not the branch perform its functions as well under the Mines Department as under the Department of the Interior?

Mr. ROWATT.—When we receive an application for any mineral land we must get reports from our railway lands branch, our patents branch, our grazing branch and our timber branch. If we had to go to another department we could not have access quickly. You know there have been complaints of delays in the departments and this would simply multiply them.

Mr. CONGDON.—That difficulty occurs in the provinces too.

The CHAIRMAN.—I want to ask another question. We do not know, perhaps we have not got an officer who deals with mining rights. Suppose a mining claim comes in that a discovery has been made, does that come to your branch?

Mr. ROWATT.—Yes, right to our branch.

The CHAIRMAN.—Then have you not still the Department of Mines, or do you deal with it entirely in your own branch.

Mr. ROWATT.—Entirely.

The CHAIRMAN.—Then an application for land and minerals under a discovery is not dealt with by the Mines Branch at all but by your branch?

Mr. ROWATT.—By the Mining Lands Branch of the Department of the Interior.

The CHAIRMAN.—I think we had better dissolve the Department of Mines if that is the case.

Mr. ROWATT.—When a piece of land is disposed of for mining purposes it is not a mine. It is simply a discovery and our department disposes of the land including what the discoverer considers to be his discovery of minerals. It eventually passes out of the hands of our department absolutely. There comes a time, for example in quartz mining, when we issue a patent for that land. It passes out of the hands of our department absolutely and we have nothing further to do with it except in some cases where a royalty is charged. But it is then in the same position as a piece of agricultural land.

Mr. JOHN HERRON.—In our province of Alberta, I do not see how you could possibly separate the mining lands from agricultural lands.

The CHAIRMAN.—It is done in other countries. In France, Belgium, Switzerland and Sweden.

Mr. JOHN HERRON.—You would have to transfer half of the province of Alberta.

Mr. CONGDON.—When the Department of the Interior issue to any person mining rights those mining rights would come under the jurisdiction of mines.

Mr. W. R. SMYTH.—That is the way it is done in Ontario.

Mr. WM. CHISHOLM.—That is what is done in Nova Scotia. You get the lands but there is a reservation of minerals, say to John Brown. The application is made for the right to the minerals. He gets the right to the minerals and he goes on to John Brown's lands and he leases them under certain conditions. The first thing when the mineral is discovered is that the discoverer inquires whether this was a grant before a certain date when the reservation began. If it is then he has got to bargain with the owners for the minerals. Why should you not have the same thing

8-9 EDWARD VII., A. 1909

with regard to the minerals of Canada? The Interior Department disposes of lands and makes such reservations with respect to minerals as they deem necessary. Then the patentee gets the land but over the minerals which have been reserved he has no control at all. Afterwards, if they are discovered and an application is made by the discoverer for the minerals and if the patent had been issued prior to the time of the reservation then of course the applicant for the minerals could not deal with the Mines Branch. He has got to deal with the owner of the soil. If not he deals with the Crown represented by the Lands Branch and gets the minerals.

The CHAIRMAN.—That is a principle not yet embodied in any Dominion statute or Dominion regulation. When the land is sold under the patents which are now given, it conveys to the owner of the land all the soil and what is below.

Mr. W. R. SMYTH.—So it should.

The CHAIRMAN.—I do not know that it should. That is what it does. Now they have no right for the explorer to go upon that land. In some countries they have such laws. In the province of Ontario they have such a law.

Mr. W. R. SMYTH.—Not now.

The CHAIRMAN.—It might have been repealed. It never was made a very practicable condition because the explorer there would have to give to the surface owner first damages for any injury he might do to the property and secondly he would have to agree with the owner as to the value and number of acres required for the working of his mine. In addition he has to pay a percentage of the profits to the owner of the soil. Now, whether we want to load up mining with all sorts of difficulties is another question. We are in this position. We have a young country, we have a vast area of mining lands not yet located, we are perfectly free to make with regard to these lands any conditions which will inure to the benefit and advantage of mining. Of course in doing that we want to be careful that we do not prejudice agriculture or any other class. Now that is our task as I understand it. It is a question for this committee to prepare to get information as to how best to deal with it. I think that is a very great question for us to solve. I think upon the solution of that question depends a great deal of the prosperity of mining in this country. In my judgment it is not at all in the public interest that it should continue to be as it is.

Mr. CONGDON.—Under present conditions the cases which Mr. Rowatt has spoken of are exceptional, I suppose?

Mr. ROWATT.—Yes.

Mr. CONGDON.—Under the ordinary grant there is a reservation not only of the precious but of the base metals.

The CHAIRMAN.—Under the patents giving their reservation, what provision is there for the explorer to go on and make a discovery or for the mine operator to work the mine if it is found?

Mr. CONGDON.—It is not in the patents it is in the law.

Mr. ROWATT.—Every patent issued by the Dominion government since November 1, 1887, with the exceptions I have mentioned—there were nearly half a million before that—contains a provision reserving to the Crown the mine and minerals together with full power to enter thereon, and for that purpose to use and occupy that land or so much thereof as may be effectual for the operation of the mine and minerals. So that the patent only gives to the owner of surface rights the right to operate the surface and it reserves to the Crown the right for any one to enter that land, to prospect for minerals, and to take up any minerals that are on the land and to take away from the owner of the surface such portion of the surface as may be necessary for the effectual operation of the minerals.

Mr. W. R. SMYTH.—That is exactly what was in Ontario, but they have repealed it.

APPENDIX No- 5

Mr. CONGDON.—We are getting into one of the most difficult fields of law and mining. In England the law is well defined. Any grants of the land and separate grants of the mining under the lands must be so worked, that is to say, the mine owner must work his and the surface owner must work his so as not to work mutual injury. In the territory spoken of by Mr. Herron, in the agricultural lands of Alberta, even if you discovered an enormous mine that mine would scarcely exceed in value the surface. In California they have, I understand, prohibited dredging because in dredging they were injuring the surface, and they are only allowed to dredge if they restore the soil and leave it for agricultural purposes as before. There are other territories, Cobalt and Gowganda perhaps where it makes no difference if you destroy the surface or not. You have got to make the greatest difference between first-class agricultural land and land which is of no use whatever. In the Yukon Territory this is provided for in our Act. A person can stake a claim either on Dominion land or on ground occupied by any person except where there is a dwelling or where it is occupied by some other person for mining purposes. Take the ordinary land which a man has for agricultural purposes. If you want to transfer it you have to give security. It is a great field and it seems to me that the only way of properly treating it so far as Dominion lands are concerned is to treat the two, the reservation and the patents under the Mining Act which operates for that. Of course it is easy enough to criticize the past when not enough was known, but one of the difficulties in former times was that the patent made a reservation or the mining regulations or Acts were made without reference to this reservation. Now one of the most important things we could do would be to consider the question of reservations and to pass our mining laws purely in reference to mining lands, but it will be very hard to find one that will apply to all parts of the country.

The CHAIRMAN.—I think that in any law that is adopted by the Dominion the different sections of the country having regard to the formation and other local conditions will have to be recognized, and the Act will have to apply under different heads. I assume that that would be necessary owing to the very varied character of our mining and to the very great extent of country over which it is spread. I think there is no doubt that we will have to recognize local conditions that exist in one section of the country and do not exist in another.

Mr. WM. CHISHOLM.—It would be better, however, to have the administration of the mines left with the local legislatures. They would be in a better position to judge of local conditions.

The CHAIRMAN.—The administration of mines is vested in the local legislatures in the provinces that form the confederation, but in those provinces that have become part of the Dominion since confederation the mines and minerals are vested in the Dominion.

Mr. CONGDON.—In some cases it is better because you secure uniformity over a large area.

The CHAIRMAN.—Of course it is an important question with the provinces that entered confederation because the mines are a source of revenue to them. They entered confederation reserving to themselves the mines and minerals and so on while the other provinces, such as Manitoba and Saskatchewan, have been created by a federal authority and have no such vested rights.

Mr. JOHN HERRON.—I cannot understand why this committee should waste its time dealing with the provinces that own and control their own minerals.

The CHAIRMAN.—We are only proposing to deal with mines over which the federal authority has jurisdiction. We do not propose to deal with the rights of the provinces at all.

Mr. W. R. SMYTH.—We will endeavour to get such an Act as the provinces would perhaps accept.

8-9 EDWARD VII., A. 1909

The CHAIRMAN.—They would not have to take it, but if it appealed to their good judgment they might do so. If we could produce such an excellent Act that they thought it would be better for them I have no doubt they would adopt it. They are just as anxious as we are to have the best regulations they can get.

Mr. Wm. CHISHOLM.—What about that resolution? Would it not be better to instruct the clerk of the committee to communicate with the secretary of the Mining Institute and inform him that the committee would be pleased if the institute sent a representative to discuss the matters covered by the resolution.

The CHAIRMAN.—That might do.

Mr. JOHN HERRON.—Before you put that I would like to state what my opinion is regarding a Royal Commission. I am of the opinion that a committee of some kind or a Royal Commission should have the power to go and examine the conditions in our country with reference to mines. I know they have not been satisfactory in the past and I think that summoning two or three men, for we could not subpoena very many men from a province, would only enable us to have the personal opinion of those men. There are no great mining organizations at least in my country, but a commission going over the ground would be able to get a vast amount of knowledge and ascertain the opinion of the men engaged in mining, both prospectors and operators. This parliament will meet again next November, and in the meantime, this committee or commission could prepare a report which would be of very great assistance and have it ready by the time we come back. I am of opinion that that would be the best thing to do.

Mr. Wm. CHISHOLM.—If we had the benefit of the experience of members of the Mining Institute that is perhaps just the conclusion we might come to, to have a commission to make inquiry in the various provinces. But before coming to a decision would it not be well to hear what the Mining Institute has to say? We do not know exactly what they want, except in a hazy way. If we heard their evidence and had an opportunity of examining them we might possibly come to the conclusion that the only thing to do would be to recommend parliament to appoint a Royal Commission to make full inquiry in different parts of the country.

Mr. JOHN HERRON.—I would like a little more information as to what this Mining Institute is composed of.

The CHAIRMAN.—Perhaps Mr. Brock, who is here, can give us some light.

Mr. R. W. BROCK.—The Canadian Mining Institute consists of mining men representing all parts of Canada. It has about 850 members. They are pretty well distributed over Canada, and I think probably the smallest representation is from the maritime provinces and Nova Scotia because they have there a flourishing mining institute. Still, Nova Scotia furnishes about 40 members. Alberta has a pretty fair representation. British Columbia has about 200 members and Ontario, of course, has the largest representation. Each one of the districts has its own local branch and questions of this kind are discussed by the local branches and recommendations are sent to the council of the Institute so that the Institute is able to get a pretty good idea regarding the general feeling of mining men throughout the country. I might say that this question of mining laws is one which has been discussed by the Canadian Mining Institute for a good many years so that the resolution which they passed represents no snap judgment but a gradually formed opinion.

The CHAIRMAN.—I know they have been discussing it for nearly ten years.

Mr. R. W. BROCK.—Practically since the Institute was founded. One of the reasons why they are asking for a commission or for some body of men to look into the question of mining laws is that the desire to get them on the most satisfactory basic principles. It is not so much a matter of details which of course would have to be settled according to the locality. But there are certain basic principles that are better than others, and it is to get at these and establish them for the Dominion and

APPENDIX No. 5

the provinces can follow them as far as they are suitable for their own individual needs. One of these basic principles for instance, is whether it is better to lease mineral lands or dispose of them outright. Another question is that which has come up this afternoon, whether the mineral rights could not be absolutely separated from the surface rights. In discussing this matter, it was the unanimous opinion of the Mining Institute that that distinction should be drawn, that one of the greatest handicaps to the development of the mining industry was the uncertainty as to where the rights lay and the uncertainty regarding the title. When you give away the mineral rights along with the surface rights in many cases it is absolutely impossible to get any clear title, and of course if you cannot get a clear title you cannot have the development of the industry. Just how that works out is exemplified by what Mr. Rowatt has said with regard to the amount of labour which is now necessary to discover whether a settler has a mining right or not. The Mining Institute say that if there was that absolute separation, if the disposal of the mining rights were in a department which has nothing to do with surface rights, there would be a clear cut line, and while it would not be retroactive it would operate for the future. Of course some mineral rights have been disposed of but if you made that distinction in the future for the greater part of Canada, this question would never come up. This was another reason why the Mining Institute wished to have this question investigated. As was pointed out, they did not know of the establishment of this committee when they passed that resolution. Therefore, they put it in the form of a resolution recommending the appointment of a Royal Commission. They wish to have these fundamental principles laid down so that they could apply to the future. Some of the troubles which they complain of are due of course to the fact that the mineral mining rights of the Dominion lands come under the regulations. As Mr. Congdon pointed out, these regulations are not as satisfactory as an Act of parliament. Mining men are all agreed, I think, that they would rather have bad laws than good regulations.

Mr. CONGDON.—Have them permanent.

Mr. BROCK.—They would know where they are at, as the expression goes, and when any change was contemplated in an Act the attention of mining men would be called to it and they would have an opportunity of bringing objections to it before the Act was passed. To give an example of one of the disabilities which mining men complain of, one of the members of the Institute was trying to get some mineral rights in the west which were supposed to be vested in the Crown and on which a royalty would have been payable. But he would also have had to make arrangements with settlers, and they also asked a royalty. He was willing to pay either the settler or the government, but he did not see why he should be held up for two royalties. There are questions like these which the Mining Institute could bring before you.

The CHAIRMAN.—Along the lines of the remarks just made, one of the difficulties and it is a very great difficulty, is this, that the mining prospector or the mine owner making an endeavour to secure capital to carry out a large enterprise meets with a great deal of difficulty. Under our law it is difficult to secure capital for the reason that when men who invest considerable blocks of money in such enterprises want to know what security they have for investment, when they put their solicitors to look into our mining laws, they find they are only regulations not made by parliament, not made by the representatives of the people in the sense that laws are made but are made simply by order in council which is subject to change. I know of many in my own personal knowledge who would otherwise have invested but who would not invest a dollar under these circumstances. It seems to me if it is possible for this committee to remove that difficulty it would be a good thing. If the committee are agreeable it would, I think, be well for us to ask certain members of the Mining Institute to attend our next meeting, and perhaps it would be an advantage to ask Mr. Clark, of Toronto, who is also a member of the Mining Institute. He has been connected with it I know, for fifteen years. I had myself a connection with it years

8-9 EDWARD VII., A. 1909

ago. He is also a member of the Ontario Mining Institute which has done a good deal of work and has assisted in a great measure in framing the mining laws of that province. Perhaps Mr. Brock could suggest who would be the most practical man to give us the information.

Mr. BROCK.—I think that might be left to the president of the Institute. There is a sub-committee of the council of the Institute which deals with these matters, and it is very probable that he would request that committee to select representatives.

The CHAIRMAN.—How large is it?

Mr. BROCK.—Three or four members.

The CHAIRMAN.—Then you think a communication addressed to the president would bring here a fair representation from that body?

Mr. BROCK.—Yes, sir.

Mr. WM. CHISHOLM.—I move that the clerk of this committee communicate with the president of the Canadian Mining Institute and inform him that this committee would be pleased to have any representatives of the Canadian Mining Institute attend the committee at any time convenient to discuss the matters in the resolution.

The CHAIRMAN.—Would you add Mr. Clark?

Mr. CHISHOLM.—I do not think it would be necessary. The president and the secretary of the Institute would know who were the best men to send.

The CHAIRMAN.—Perhaps that would cover it then. Your intention is that a communication should be sent to the president asking him to send one or more representatives.

Mr. JOHN HERRON.—I would think there should be a limit.

The CHAIRMAN.—There is no danger of them sending too many. Is it your pleasure that this motion should pass?

Carried.

The CHAIRMAN.—What date shall we select for our next meeting?

Mr. WM. CHISHOLM.—You might leave it to the chair. In the meantime we might receive a communication from the Institute.

The committee adjourned to meet at the call of the chair.

THURSDAY, April 22, 1909.

The committee met at 10 o'clock, a.m.

The CHAIRMAN.—Some witnesses from outside points are present this morning and although we have not yet got a quorum I think we had better proceed. Mr. J. W. Tyrrell is here for one and we might hear him.

Mr. J. B. TYRRELL called.

By the Chairman:

Q. I might say, Mr. Tyrrell, that the object of the committee is to get information with respect to the present condition of mining affairs and the mining regulations and mining laws—to ascertain wherein these laws or regulations are in any way defective and in what regard you would suggest that the committee should make recommendations for their improvement. Perhaps it would be just as well if instead of

APPENDIX No. 5

proceeding in the form of question and answer that you should make a statement of your views—no doubt you have some views on the subject that will be of interest to the committee—and then it will be open for any member of the committee to ask such questions as he might think proper?—A. Well, Mr. Chairman and gentlemen, it might be as well for me to talk on some definite line or on some definite series of subjects and possibly you might indicate what point you want me to take up first. In regard to the scope of the Mining Department would you wish me to give my views on that?

The CHAIRMAN.—One of the subjects which the committee at its last meeting decided to get information on, and for that reason summoned the gentlemen who are present as witnesses this morning, was in respect of the present condition of the mining regulations as they affect Dominion jurisdiction in certain of the provinces in the Dominion has not control of granting the mining lands but they have in Manitoba, the Yukon and the Northwest. They also control certain other lands throughout all the provinces which are comprised under Indian reserves. There are regulations, as far as I understand, but there is no statutory law of the Dominion affecting mines except in the Yukon. If you have any views to express on this subject we would be very glad to hear them and receive what information you see fit to present to us.

Mr. MADDIN.—I was absent for two or three weeks from the city, and at the last meeting which I attended it was proposed to have before us all mining regulations and all orders in council that have been framed or passed.

The CHAIRMAN.—We have got all those documents here.

Mr. MADDIN.—They have been all brought before the committee?

The CHAIRMAN.—Yes, they are all here either in printed or typewritten form.

Mr. MADDIN.—I simply wanted to find out if such was the case. Then if the witness is familiar with these enactments he can discuss those that he may have knowledge of, the scope of their operation and to what extent their operations should be enlarged. That may help him in the starting point.

The CHAIRMAN.—That is the very subject I am inviting him to discuss. Here are the regulations if you wish to look at them (handing witness file of documents).

Mr. TYRRELL.—At the present time I am afraid I do not know exactly what the latest regulations are. On many of the points I would have to speak to a large extent of the regulations as I have encountered them from time to time in connection with my work throughout the country. I had not seen the exact text of the regulations as they stand at present until they were handed to me a few moments ago and not having been supplied with a copy in time to make myself thoroughly familiar with them as they now stand I am afraid I could hardly take the matter up in that way.

Mr. CONGDON.—Would you allow me to suggest that I think this investigation and the calling of witnesses was because the Mining Association had recommended the government to issue a Commission of Inquiry into the subject of mining in the Dominion, and this committee thought that by calling witnesses before it the material might be obtained just as well as by a commission. I understand that to be the object of summoning these witnesses. It is perfectly useless to expect witnesses to do more than make one or two general suggestions with regard to mining matters that they have not gone into themselves and compare the existing data. However, they can give the committee such information as would be procured by a commission such as suggested by the association.

The CHAIRMAN.—I think that is correct. But this gentleman has stated that he can discuss the operation of the regulations as he has observed in actual practice, the result in actual operation of our mining regulations and the granting of mining rights. Perhaps he would like to give us his experience in regard to these matters.

By the Chairman:

Q. Are you a mining engineer?—A. I am.

Q. Have you had practical experience in the field?—A. I was for seventeen years employed as a geologist on the Geological Survey of Canada, and for the last ten years, or somewhat more than ten years, I have been engaged in private practice as a mining engineer in different parts of Canada.

Q. Well now, if you will just give us your experience as you say you have encountered these regulations?—A. With regard to the question of the advisability of having definite fixed mining laws instead of mining regulations made by order in council I would like to put myself, and I think I can also put the Canadian Mining Institute, definitely on record in stating that the control of mining affairs by orders in council has been unsatisfactory. From time to time the prospectors or miners throughout the country find the laws under which they are working have been changed without their knowledge, in fact in such ways that it has been almost impossible for them to know of those changes. Changes may occur, as every one knows who is familiar with orders in council, from day to day, and without regard to any fixed times. A man might go into the woods prospecting with a definite set of orders in his mind, and he might come back in a few weeks and find that those orders in council had been changed and that he must do his locating over again. The very changeability, or the possibility of changeability of laws so made, gives a basis of uncertainty to all mining enterprises. The conditions under which miners are to take up mining land and to undertake mining enterprises should be just as stable as they can reasonably be made. A man takes up —

By Mr. Congdon:

Q. I think we are all agreed on that, but the statutory laws are not subject to constant changes?—A. If that is agreed on I need not say anything more on that point.

By the Chairman:

Q. To what extent, may I ask, can you give us cases in point where you encountered difficulty personally—for instance, do I understand you have, in addition to being a mining engineer, also been an explorer?—A. Yes, I have.

Q. Well now, as an explorer, in acquiring the claim of an explorer, what difficulty have you encountered under the present plan of obtaining mining rights?—A. Just at the present moment I do not know that I have any exact case sufficiently in my mind to detail it, but any one who has been in the Yukon, and the member for the Yukon will bear me out in this, knows of the uncertainty which constantly hung over the mining regulations there, how men often staked claims under what they supposed to be one set of laws, only to find that these laws had been materially changed. I do not think that any individual instance would strengthen that statement, for I am sure that hundreds of such instances can be looked up from the Yukon with very little trouble. The change of the length of the claims from 500 to 250 feet; the change of the width of the claims first from base to base, then to rim rock, then to the width of a thousand feet. First staking along the middle line of the valley, then on a fixed and arbitrary base line, &c., &c. All these changes were often quickly made and affected very materially the working of the mining laws, and they also very materially affected the obtaining of any capital to work mining properties in the country.

By Mr. Congdon:

Q. Perhaps you would not mind saying what principles you think should be adopted in regard to the character of the titles; have you any views on that?—A. With regard to the titles that should hold for the mining lands, I consider that they should be as fixed as they can possibly be after the person has definitely shown his

APPENDIX No. 5

intention to work his claim, with this proviso, that if the owner either individual or company has practically abandoned the mining land, then that land should go back to the government. This would be the general principle which I would enunciate that a long lease or a patent should be given which would be so arranged that if the ground were virtually abandoned the land would go back to the government, should be given.

Q. What do you mean by the word abandoned? Take a case of this kind, a man had a patent on a claim, and he had spent say \$25,000 or \$30,000 on it, if he stopped mining operations would you call that an abandoning of the mine?—A. No, I would not call that an abandonment, a mere stoppage of operations, because every man should be allowed to take the mineral from the ground in what he considers the best possible way. I do not believe that it is advisable to hound a man into extracting the mineral from the ground recklessly, because there is only a certain amount of mineral in the ground. I believe that he should be given a reasonable time, and should be allowed to choose the best methods for that extraction. Often it appears that the idea is rampant that the man should be forced to extract the minerals from the ground in the quickest possible time and way so that he could get out of the country.

By Mr. Goodeve:

Q. Might I be permitted to ask a question? As Mr. Congdon has said we are all agreed on that point, and what we are seeking is to obtain definite laws in regard to all those mining lands not under the control of the various provinces. Now what we want to get at is this, if you, in your very wide experience, have come across certain things either in the provincial laws, or in such laws as have been made from time to time in the Dominion that you consider not feasible, and we want to know if you have in your mind certain definite laws that you would recommend the committee to insert in the statute that they propose to recommend to the House. That is what we want to get from you men that have had long experience, we want any recommendations that will help us to attain that object.—A. I think that is the point I was endeavouring to make, that there should be a fixed title so that a man could go to a capitalist with it. But, in case of the virtual abandonment of that ground——

By Mr. Stratton:

Q. What would you call 'abandonment'?—A. I would call abandonment what one can see in many parts of Northern Ontario where mining was discontinued years ago, the owners of the mining rights have disappeared, and work cannot be resumed because a good title to the ground cannot now be obtained.

Q. But you have to define it, what is it? Is it in the removing of the machinery? what is it? If a man stays proceedings you cannot confiscate his property by saying he has abandoned it, you must have some reasonable definite point?—A. I understand thoroughly your question, and at the same time I am hardly prepared to make a statement offhand of exactly what I would mean by abandonment. I mean an apparent intention on the part of the parties owning to leave that land.

By Mr. Congdon:

Q. To be settled by the terms of the grant?—A. Yes, for instance——

By Mr. Goodeve:

Q. Put it the other way, what terms would you recommend the grant to be issued on, we will get at it that way?—A. Well, I am not a lawyer so that I would not care to make suggestions, I do not know whether the lawyers can draw up a patent in such a way that the land will revert to the Crown.

Hon. Mr. STRATTON.—They can if you give them the details.

A. Well, that is it.

8-9 EDWARD VII., A. 1909

The CHAIRMAN.—Perhaps we may facilitate matters, if this gentleman has any other subject in his mind that he would like to mention to the committee we will be glad to hear it. But with regard to the subject that he has been discussing so far, perhaps it would be better dealt with if the gentleman would consent to make a memorandum, he has not had time to study the regulations and laws although he has had a very wide experience, and perhaps he will be kind enough to make a memorandum and hand it to the secretary of the committee at some future time.

Mr. MADDIN.—I think perhaps the best way in which we could deal with this matter would be to take the regulations and orders in council passed by the federal government and go through them section by section, approving of those that are all right and recommending the repeal of those that work hardship, supplementing by new legislation anything that seems practicable which is not already covered. If we do that now we will have the advantage of the assistance of those gentlemen who are here to aid us with their practical experience. I do not know that we can make much progress in discussing matters in a general way, but we have mining regulations and we can best deal with them by taking them up piecemeal in the way I have suggested.

Mr. CONDON.—I think that is a good suggestion, but this is not the proper time to do that. What we want to get at just now is general principles which should govern.

The CHAIRMAN.—The hon. member has made a good suggestion, but this is a matter for the committee to take up later. What I understand is this, that there are a number of regulations by order in council, and that they have not worked well, that there are grievances which these mining men have experienced, and we desire to find out what those grievances are. After we have obtained what light we can in that way it will then be for the committee to take up these regulations and make up their mind definitely whether they will not substitute for those regulations a concrete law, a workable statute that will supplant the regulations altogether and do away with the methods of dealing with mining rights by means of orders in council. Perhaps it would be well at this stage, if the witness does not mind, just for a moment, if I read a passage from the declaration of principles of the North American Conservation Conference. Among the subjects that they deal with is that of minerals, and I understand this committee has been called into existence for similar purposes to that for which the conference was summoned. I have not with me the copy of the resolution which was passed by the Mining Institute, copies were sent to me and I have them somewhere, but I haven't them here this morning; I find that the secretary of the committee has not got them either, but I think they are, generally speaking, along the same lines as this article which I will read:

'We recognize the mineral resources as forming the chief basis of industrial progress, and regard their use and conservation as essential to the public welfare. The mineral fuels play an indispensable part in our modern civilization. We favour action on the part of each government looking towards reduction of the enormous waste in the exploitation of such fuels, and we direct attention to the necessity for an inventory thereon. Such fuels should hereafter be disposed of by lease under such restrictions or regulations as will prevent waste and monopolistic or speculative holding and supply the public at reasonable prices.

'We believe that the surface rights and underground mineral rights in lands should be separately dealt with so as to permit the surface of the land to be utilized to the fullest extent, while preserving government control over the minerals.'

This is the point that I think the Mining Association refer to in their resolution, and it was referred to by some members of this committee at the last meeting..

'Regulations should be adopted looking to the most economical production of coal and other mineral fuels and the prolongation of the supply to the utmost. We favour also the substitution of water-power for steam or other power produced by the consumption of fuel.

APPENDIX No. 5

‘Great economy in the use of fuel has resulted in the past from the application of scientific inventions and the use of improvements in machinery, and further progress can be made in the same direction. We therefore recommend that all possible encouragement and assistance be given in the development and perfecting of means whereby waste in the consumption of fuel can be reduced.

‘The loss of human life through preventable mining accidents in North America is excessive. Much needless suffering and bereavement results therefrom. Accompanying this loss there is a great destruction of valuable mineral property and enhancement of the cost of production. The best method of eliminating these known and admitted evils lies in the enactment and strict enforcement of regulations which will provide the greatest possible security for mine workers and mines. We therefore favour the scientific investigation of the whole subject of mine accidents by the governments participating in this conference, the interchange of information and experience and the enactment and enforcement of the best regulations that can be devised.

‘Mineral fertilizers should not be monopolized by private interests, but should be so controlled by public authority as to prevent waste and to promote their production in such quantity and at such price as to make them readily available for use.’

I think that the reference that has been made to the committee covers pretty largely all that we are trying to discuss this morning, and I would like to ask this witness if that does not fairly cover the resolution which the Mining Institute passed?—A. Yes, these are excellent recommendations and every possible attention should be paid to them.

Q. May I ask if you will be kind enough to give us a memorandum on the points referred to, and to hand in the memorandum later to the secretary?—A. Yes, if that is suitable. I would just like to read a little extract from an article that I wrote about a year or so ago on what I consider a mining code in Canada should do:

‘A mining code should therefore encourage men to search for and find valuable minerals, should provide for the quick and easy acquisition of the mining property after minerals had been discovered on it, should protect the owners in the employment of any rational methods which they care to adopt in extracting the values from the ground, and should encourage them to become permanent residents of the country, and to use the riches extracted from the ground as far as possible for the country’s development and for the furtherance of the growth of such other industries as it may be able to support.’

The CHAIRMAN.—We are all agreed upon that, I do not think there is any member of the committee but what thoroughly agrees in the views expressed there. But what we are trying to get at is how to bring that about and what machinery is necessary to accomplish it.

Mr. HERRON.—I think I noticed from the article read by yourself, Mr. Chairman, that one of the recommendations contained in that article is that the government should retain the land and lease it. Now that is one of the principal matters complained about, under the coal mining regulations at the present time, that while the government retains the possession of the land the prospector finds it impossible to get capital interested in the mining of coal, and therefore the whole of the mining of coal in the west at the present time is confined to a few of the companies who have a permanent claim on the land, or who have patents of it; they are the only ones that are working. There is nothing to encourage any other man to develop a coal mine, from the fact that they cannot get possession of the land. That experience is directly contrary to the recommendations you have read.

Mr. TURRIFF.—I would like just to make one statement if you will allow me, and that is that I feel very strongly on the point that the title in the surface should be separated from the title to the underground minerals. If the government wishes to

give a man the whole title to the ground from the surface down it should give it to him in two separate deeds or titles, one for the underground rights so that that could be kept absolutely separate and distinct. The mixing up of the title of the surface and the underground rights has always led to difficulties, and it has undoubtedly met with the holding back of a large amount of country from mineral development.

The CHAIRMAN.—I think the committee is pretty well seized of that point.

Mr. B. A. C. CRAIG called.

By the Chairman:

Q. Now, Mr. Craig, you have heard what has been stated by the last witness who addressed us and I might say that we will be pleased to hear from you any views you may have in your mind in reference to the subject under discussion and that you would like to convey to the committee?—A. Well, as Mr. Tyrrell has stated, we feel that orders in council are unsatisfactory and we want a federal Act that will cover the whole territory in the Dominion. The Dominion government has under its control greater areas of mineral lands than many of the countries that are producing enormous amounts of minerals, and yet we have no law at all covering it.

Q. Can you give me instances of grievances under the present regulations?—A. I myself last year—

By Hon. Mr. Stratton:

Q. It might be well if Mr. Craig would state what his experience is.—A. I have been interested in mines for the last sixteen years, and I have been operating in mining properties for that period.

By Mr. Maddin:

Q. Where?—A. In Ontario and Quebec; I have tried to operate out west, but I gave it up on account of the title; I have also operated in the States and I have had some little experience in Mexico, but not much.

By the Chairman:

Q. Can you give us a case in point where you have some knowledge of difficulty encountered personally in getting titles?—A. Yes, I went out west two years ago and looked over property there then, but I had—

By Mr. Herron:

Q. When you speak of 'West,' what province do you refer to?—A. It was in Keewatin, north of Manitoba; I intended taking it up for cement, but I found there were no regulations at all whereby I could take this property up, and after several proposals with the minister I eventually gave the whole matter up, and simply let what money I had spent on it go.

Q. Well now, can you give us another case?—A. Yes, I had another case where I found a very large deposit of quartz on Indian lands, that was in the province of Ontario, but being Indian lands it was controlled by the Dominion, and I found that there were no regulations under which I could satisfactorily take it up and that it would take so much time to get an order in council through that a man might as well go into something where he could get his title cleared up at once.

Q. Have you any other case you can quote us?—A. Those are my two experiences; I have most of the time fought shy of any lands owned by the Dominion, for that very reason that you always have to spend a long time before you can get a title.

APPENDIX No. 5

By Mr. Smyth:

Q. Did I understand you to say that was in Ontario?—A. Yes.

Q. You have reference to Indian lands, have you not?—A. Yes.

Q. I wanted to make it quite clear that you were speaking of Indian lands which are under the control of the Dominion, because you stated that they were in Ontario. —A. I can give another instance of difficulties experienced under these regulations by a friend of mine who has had a great deal of trouble in dealing with gas and oil. For instance, the regulations say that the minister may reserve for an applicant who has machinery on the ground 1,920 acres. In other words a man will not get a title unless he first has the machinery on the ground, instead of being able to send his money down and get his title on fulfilling certain conditions he has to go down to Ottawa and spend time in making special arrangements.

Q. Do you know of any case where there has been delay under the regulations in getting a title?—A. I know that Mr. Coste was delayed very considerably.

By Mr. Herron:

Q. I can supplement what the witness has said regarding this oil and gas and propositions of that kind. The regulations at the present time, I believe, call for a man having his machinery on the ground?—A. Yes, that is so.

Q. Well now, in the country where they are prospecting for oil, in that district in which I live, it will cost a great many thousand dollars, perhaps \$10,000 or \$15,000 to take the machinery over the first range of mountains to the field where the oil will be, and it is naturally a race as to who is going to be there first with the machinery and they do not know whether they will get title to the land or not; that does not seem fair. There ought to be some way of a man getting a title if he carries out certain conditions.

By the Chairman:

Q. You consider that a defect under the present regulations?—A. Not only that, but even after his machinery is on the ground—he has first to get his machinery on the ground, and then he has to come down and arrange for the land.

By Mr. Herron:

Q. And then there is often a dispute between applicants as to which of them was on the ground first with machinery. They have to get machinery on the ground which will cost them perhaps \$10,000 in the first place and a large sum to get it on the spot, and when they get it there it may be that they will find the land is taken up by somebody else.

By the Chairman:

Q. Is that about your experience?—A. That is just about the experience of another man I know of. Take that gas district, just to show you what a proper mines Act will do for the country—we have enormous deposits of gas out there; yet if you will go down to Canute and Iola, Kansas, as I have, you will see even British Columbia ores being taken down there to be smelted by the gas which is found there. If we had a proper mines Act I have no doubt that the mining industry of British Columbia would be greatly stimulated and that a huge smelting industry would spring up in the Northwest. This would mean a very valuable local market for the farmers of Alberta and would give a stimulus to trade throughout the Dominion. After agriculture, mining is the greatest and most important Canadian industry. Is it not entitled to something more than orders in council which frighten miners and mining capital away?

Q. Would you have any objection to hand the secretary of the committee, at some time at your convenience, a statement of your views for the benefit of the committee?—A. Yes, I will do so.

Dr. A. E. BARLOW called.

By the Chairman:

Q. Dr. Barlow are you a mining engineer?—A. Not a mining engineer, a mining geologist.

Q. What experience have you had in connection with mines?—A. Well, I was for over twenty-three years a geologist on the Geological Survey.

Q. In this country?—A. Yes, on the Canadian Geological Survey, and the last ten years was particularly given to the study of ore deposits, principally in Ontario, but also in British Columbia and Nova Scotia.

Q. Now, will you please state to the committee any views you might wish to convey as to the matters under consideration. You have heard the discussion this morning and know pretty well what we desire to get at, can you give us any information?—A. The whole aim of this agitation in the Canadian Mining Institute has reference to a Canadian mining law. We consider that any such laws that were made should recommend itself to the whole of Canada so that any mining legislation that Canada proposes to adopt should be very carefully studied before it is enacted. We felt that the mining industry has laboured under certain, sometimes, very serious disabilities, in that those regulations at present governing are simply orders in council which though very good as far as they go, are subject to change sometimes very frequently and rapidly, and that is one of the greatest defects. It is extremely difficult for any one interested in mining to keep themselves acquainted with the various changes in the mining regulations; you may be able to find mines and mineral locations, but the trouble is to hold them once you have them. I know in regard to the coal mining regulations they are now just about as stiff as they can be made and I do not think you are going to lease an acre of coal lands at any great distance from the railway track. We have really no knowledge of what our resources are except what we obtain by exploration, and under the present conditions explorers will not go any great distance from the railway so that we will not get much additional information as to what our actual resources are.

Q. Can you give any reason for that? Why should exploration cease?—A. Because it takes a long time to bring a coal area into a working colliery. In the first place, in order to have a real good colliery which will recommend itself to capitalists you require from four to six square miles of land, and you can understand that under the existing regulations to hold that area for any number of years will cost quite a substantial sum, and then you get only a lease. As it is very desirable that the title should always be kept clear, you would have to impose an acreage tax for a lease is not as much sought after as a patent. If you have a concrete proposition that you can bring to the capitalists and say: We have a patent with a clear title, which our laws recognize.

Q. At what distance from the lines of transportation or water communication would you recommend that the lease system should cease and the title in fee be dealt with? Where would you draw the line?—A. I would say about twenty miles, speaking roughly, or perhaps between twenty and thirty miles.

Q. Am I right in assuming that your reason for that is that you are of the opinion that unless the explorer will penetrate to the greater distance and make the discovery, that discoveries will not be made, is that the reason?—A. The discoveries will not be made.

Q. Then you think that the incentive to induce the explorers to undergo that hardship or to incur the expense, whatever term you like to use, is not sufficient under the present regulations?—A. I do not think it is.

Q. He cannot utilize it?—A. He cannot utilize it.

APPENDIX No. 5

Q. He cannot get any return for his labour and energies?—A. No, he cannot get any return for his labour and energies.

Q. May I ask you a question on this point, are you a member of the Canadian Mining Institute?—A. Yes, sir, I am one of the vice-presidents.

Q. Perhaps you would recognize this resolution, I would call your attention to section 2 and I would like to hear what you have to say in reference to it?—A. Well, I am heartily in accord with it, for I might say, that I was one of those who helped to draft that resolution.

Q. Will you read it?—A. (Reads).

‘That the Dominion government take early action to complete the organization of the Department of Mines by transferring to it the complete administration of all the mining lands, subject to its control.’

Q. What do you mean by that? Is not the Department of Mines at the present time in that position?—A. No, at the present time the Department of Mines is made up of the Geological Survey Branch and the Mines Branch.

Q. Yes, but that is quite a customary thing for a department to have different branches?—A. Yes, well——

Q. What is the objection to it, is it having the different branches?—A. Well, I do not wish to raise any objection here.

Q. I know, but that paragraph is inserted in the resolution and your Institute must have had some views on the subject. I am trying to find out what the grievances were, if you will be kind enough to tell the committee what caused the Institute to pass that resolution; what was in the mind of the drafter when that resolution was passed?

Mr. CRAIG.—I believe I had something to do with that and perhaps I can answer better than Dr. Barlow. There are sufficient matters in regard to mining involved in the administration of the Mines Department that should be dealt with by some one who, as you might put it, is ‘soaked’ in the subject, who has special knowledge of the subject. For that reason we want a Minister of Mines that knows something about mining, and who could handle mining matters as a mining man would expect them to be handled, that is a man with specialized knowledge.

Q. Is not that the case now? In what particular is not that the case now under the present practice?

Mr. CRAIG.—Well, under the practice the Minister of the Interior is not supposed to be a mining man or to know anything about it.

Q. Well, is it the Minister of the Interior that deals with it now?

Mr. CRAIG.—Yes.

Q. And not the Minister of Mines.

Mr. CRAIG.—Not so far as I have had any experience. What we feel is that the whole organization of the department should take in everything pertaining to mines, and then having officials there who are specializing in that particular industry, they should have mining engineers, and engineers who would go all over the Dominion and who are acquainted with the mining conditions in the different portions of the Dominion who could advise the department.

By Hon. Mr. Templeman:

Q. As a matter of fact, the administration of the mining laws, the passing of the orders in council, the passing of mining laws, the administration of mining in the Yukon, the placer mining, the coal mining in Alberta, is all within the Department of the Interior because it is connected with the lands which are administered by the Department of the Interior. That is the purpose of that resolution, it seems to me, that the Department of Mines is not fully constituted according to the views of the Mining Institute, because of the fact that the Department of the Interior deals practically with the question of the administration of mines.

8-9 EDWARD VII., A. 1909

Mr. CRAIG.—Yes, and that is one of the very essential things.

By the Chairman:

Q. Do you think it would work better in the interests of those engaged in mining enterprises if it was dealt with by one minister and not divided up under the supervision of two?

Mr. CRAIG.—All we want to have is one minister only.

By Mr. Smyth:

Q. Do you think it could not be dealt with by a deputy minister who would be specialized in mining and who would know all about mining?

By Mr. Maddin:

Q. Is it not the object of the resolution to have the Department of the Interior divided so as to separate the mineral from the surface rights and to have a head of the department who would deal solely with the subject of mining as an especial matter separated from surface rights?—A. That is, of course, what we are urging, that the surface rights be separated from the mining rights, and that the surface rights be left with the Department of the Interior as at present, but that the mining rights be dealt with by the Mines Department.

The CHAIRMAN. And there is no objection to the Mining Department being a branch of the Interior Department?

Mr. GORDON (Nipissing).—In my opinion that will only leave room for friction. It seems to me that the surface rights as well as the mining rights should come under the Minister of Mines, otherwise there is going to be a conflict of interest. I think you will find that the proper way is to let the Minister of Mines have jurisdiction over the land, surface rights as well as the minerals. It should be one department with a Minister of Mines at the head having deputies under him to look after these different departments, and I think that is what the resolution of the Mining Institute is aiming at.

Mr. CONGDON.—I should think the thing is simplicity itself, it has worked out in every province of the country. You have in the Interior Department the control of the land so far as they are for agricultural or any other purpose of that kind: you have in another department the control of the minerals and I see no difficulty whatever in working it out. There is always some difficulty when you come to minerals, you have to go to the land department and get so much of the surface as is essential to work the mine, but the inconsistency is that the theoretical part only is with the Minister of Mines and the practical part is under the Minister of the Interior, and you cannot get theoretical results that are worth anything except from the department that is founded on practical work.

Q. I would like to ask Dr. Barlow a question and I will put it this way in order to get a clear answer: I interpret this resolution which your institute passed, a copy of which I have in my hand and to which I call your attention, upon that point to mean that it was the object of the institute in passing the resolution to convey this view to the minister that in constituting the Department of Mines, as it is put here, 'that the Dominion government take early action to complete the organization of the Department of Mines by transferring to it the complete administration of all the mining lands subject to its control.' I assume that what they meant by that was the mining interests, whatever they are?—A. The mines.

Q. And I assume that the object was to have all these matters dealt with by a minister who was responsible to the government of the day, and through the government to the people of the country for the administration of mining affairs, and who is naturally supposed to be in sympathy with the industry of which he is the head,

APPENDIX No. 5

in the same manner as the Minister of Agriculture is in more or less sympathy with agriculturists and the Minister of Trade and Commerce is in sympathy with the commercial interests of the country. Perhaps you will tell me whether that was or was not the view of the institute in passing this resolution?—A. That was really it, they thought that it would receive more careful and more intelligent consideration in matters pertaining to mining and mining laws.

Mr. GOODEVE.—As I understand that it is this way, that under the mining laws, as they exist now, or as they may be formulated, they may discover certain mineral, either gas, coal or ore, and regulations are laid down under which that claim can be staked. The man stakes his claim, and he suddenly finds, as Mr. Craig did, that he is up against it in the Lands Department, because he cannot get his surface rights necessary in order to work the mineral that he may have staked under the mining law. If I understand that resolution to mean anything it can only mean one thing and that is what we all desire, that just as soon as a claim is discovered, and the claim is made for that mineral by the prospector, that the surface rights pass from the control of the Interior Department to the Mines Department, so that the regulations will work one with the other, otherwise you have just exactly the condition that Mr. Craig has spoken of that after he has discovered gas, oil or coal he has complied with the law in so far as the mineral regulations are concerned, but he cannot get the surface rights to work the mineral. If you are to do anything we have to make it clear on that particular point, that just as soon as the discovery is made and the claim is made for the mineral that not only the mineral, but the land itself shall pass to the control of the Mines Department.

The CHAIRMAN.—That is a matter for the committee to work out when they come to deal with the Bill itself, but we are not dealing with that this morning. We have first to discover from these gentlemen the views they have, and then we can work out the details later.

Mr. CONGDON.—There is nothing better defined in the English law than the distinction between the surface rights and the mines. The surface rights belong to the Interior Department no matter what happens and the mines belong to the Department of Mines, or should belong there. The only difficulty is to provide a mode by which the mine owner can get from the Interior Department so much of the surface as is necessary to work the mines and leave the rest of the surface absolutely under the control of the Interior Department.

The CHAIRMAN.—That matter has been worked out satisfactorily in France, in Italy, in Sweden and in other countries. The laws of those countries, as I recollect them, provide machinery which can, with some changes be adapted to our circumstances here. If no member of the committee has any further questions to ask Dr. Barlow we will call on Mr. Clark. Or has Dr. Barlow anything further that he would wish to convey to the committee?—A. No, all that we are anxious to have done is set forth in the resolution which was made as brief as possible, and couched in as simple language as possible. The chief thing required is the substitution of mining laws for orders in council, the transfer of Dominion mining lands from the Department of the Interior to the Department of Mines, where they could be dealt with by a special Mining Lands Branch of the Department of Mines and not by the existing Mines Branch or Geological Survey Branch.

Mr. TYRRELL.—As one of those instrumental in drawing up that resolution perhaps I may be allowed to say a word with regard to it. I know that our intention at the time and our idea was to ask that all surface rights be separated from the mining rights beneath, and that the mining rights be put under the charge of the Minister of Mines exclusively and it would necessitate, of course, calling on the Minister of the Interior for so much of the surface rights as would be necessary to work the mines.

The CHAIRMAN.—That is a matter of detail.

Dr. BARLOW.—That was our idea exclusively.

Witness retired.

Mr. J. M. CLARK, K.C., Toronto, called.

By the Chairman:

Q. Perhaps Mr. Clark will be good enough to tell us whether he is a mining engineer or expert?—A. No, I belong to the class that they call mining lawyers. I am not an engineer, although I have examined a good many engineers, and I have had a good deal to do with questions of mining law. I do not want to say that I am an expert on engineering.

By Mr. Smyth:

Q. Are you a lawyer and a joint author of a book on mining law?—A. Yes, in connection with the book called 'The Law of Mines in Canada,' that Mr. Smyth refers to I had occasion some years ago to endeavour to find out what the regulations were here, and we made a compilation (corresponding to what Mr. Rowatt has made, and which is now before the committee), which brought the laws down to the date at which our book was compiled. There have been a great many changes since, but the book contains all the regulations which were gathered together up to that time. In connection with your work I have one or two things to say and those are these: First, in the preparation of a mining Act, upon which apparently the committee have decided, would you permit me to suggest that not only the present regulations and the present Act relating to the Yukon should be considered by your committee, but also the laws in the various provinces under which mining has taken place and the experience under those laws, and not only that but it seems to me that very valuable information can be got by your committee from the experience in the Western States where mining has been very successfully carried on, and where the problems referred to by Mr. Congdon and several members of your committee have been successfully solved. Without taking up the time by going into that matter in detail, I might say that you will find of very great assistance the decisions of Mr. Justice Field of the Supreme Court of the United States, who was the leading mining lawyer in the Western States and who had a good deal to do with the framing of their mining laws there. The Supreme Court of the United States was enlarged so as to include a man in it who was familiar with the mining law, and most of the decisions in the great mining cases which went to the Supreme Court of the United States were delivered by Mr. Justice Field.

By the Chairman:

Q. He was appointed to fill the position?—A. On account of his knowledge of mining law. I would refer your committee to his definition of the meaning of 'discovery,' which is, of course, the foundation of all mining law. He defined a discovery to be—and it is a definition which I think cannot be improved on—as one which a prospector would bona fide spend his own time or money in developing. I am giving that not as my own, but Mr. Justice Field's, and call your attention to the great wealth of experience that was behind that definition and my study of the laws of the provinces of the Dominion and of your regulations would lead me to conclude that it will be impossible for your committee to improve on that definition of 'discovery.' I may also—

APPENDIX No. 5

By Mr. Congdon:

Q. How would you determine that?—A. That would be determined not by any inspection settling that but, as Mr. Justice Field points out, by the discovery being followed by active steps which are to be defined in the way of working conditions.

Q. You are not in favour of inspection?—A. No, my idea is that in practice the prospector is more apt to know what is a good discovery than any government inspector, and I think that the method of inspection by a government official—I think that all mining men agree with me in that although I am only speaking from what they say in that respect—has been found unsatisfactory and is applied now in Ontario to a very limited area, it is practically abandoned as to the whole province, and there the inspection after all is limited.

Q. The meaning is that a man has discovered something he is willing to spend time and money on?—A. Yes, and the public practically by requiring expenditures to follow the discovery of the work, which should be absolutely defined, so that the prospector and the investor would know exactly what they had to face and exactly what their rights and liabilities would be.

By the Chairman:

Q. What have you to say from your experience as to the form of title, whether leasehold, freehold, or some other plan of vesting the miner with the right to mine?—A. As a lawyer I can say without any hesitation that under conditions that are suggested by what you have read you could be fully protected even in granting fee simple by inserting these conditions, but the radical difference between granting a freehold under those conditions and the granting of a lease would be that in the one case the government would have to act to divest the freehold, and in the other case the miner has to assume his own rights as against the government. It makes simply the difference between the government being the defendant in the one case, and the plaintiff in the other; but the conditions preserving the public interest can be as well protected I think in a properly drawn patent as they can under a lease, and the essential thing in my opinion is, whether you have a patent or a lease, that the conditions should be absolutely and definitely fixed so that all parties concerned shall have absolute certainty.

Q. The patent is more acceptable to capitalists you think?—A. You will find it very difficult to get capital to invest unless there is the fee simple, the grant in fee simple to the miner.

By Mr. Congdon:

Q. By 'fee simple' you do not quite mean that, but the full grant of the mining rights?—A. Yes, mines may be granted in fee simple.

Q. But not the surface rights?—A. No, the surface of course is immaterial except the rights to so much as may be required for mining purposes. I mean the grant of the mine is in fee simple, and as Mr. Congdon has pointed out according to the English law, which is in force here except in the province of Quebec, the rights in respect of mines are defined by a series of English decisions, including a number of decisions by the House of Lords, so that all these questions I think have really been determined, and the only thing for the committee to do in that respect is to take advantage of the information that has accumulated by the experience in England, in the various provinces, and in the United States.

By the Chairman:

Q. As a lawyer do you see any difficulty in framing a provision, by which the surface and underground mineral rights might be separated the one from the other under conditions which would give the miner or prospector, the discoverer, the right to a patent for sufficient land for the operation of the mine by paying a reasonable

compensation for the right to the surface only?—A. There is no difficulty, and the best answer is that it has been done. The tin mines and the lead mines of England have been worked for hundreds of years under such conditions where the rights of the miner and the surface owner were well defined according to custom, and I may say that for many years that was defined by customs which were supposed to be known in what was called the 'Barmote.' However, in recent years the method that has been suggested by the committee was adopted in England and all those rights of the miner and surface owner have within comparatively few years been embodied in the English statutes which there was no difficulty in framing separating them according to the needs of the locality there. I can answer directly that there is no legal difficulty in carrying that out, but of course the statute has to be properly drafted.

Q. From your experience in mining matters, I happen to know you have had a good deal of experience, do you think it advisable, and in the public interests, that the surface and mining rights should be separated and should be dealt with by separate and distinct patents, and not in one patent?—A. I think if you consider the development of the mining industry, which I regard as extremely important, it can be better carried out in that way, and I think when the matter is carefully examined, as your committee are proceeding to do, it will be found there is very little real conflict of interest, and any possibility of conflict can be avoided by a study of the results of the experience in the United States, here, and in England where the same problems have been solved to the satisfaction of all concerned.

By Mr. Congdon:

Q. What do you think of the value of an intermediate title, that is a title that will be of value to the prospector? In Nova Scotia they used to have a license to search for coal under which one could take five square miles, giving the right within a certain period to prospect on that, and to select a square mile on which to mine. What do you think of some way under which a prospector could obtain a license covering a larger area than he could get land?—A. My idea is to keep the area open until discovery is made. I am not in favour of tying up land in favour of one party; I think that before a man can tie up land he should make discovery.

By the Chairman:

Q. I want to ask Mr. Barlow a question on that point. I understood him to say that there are some inconveniences caused by regulations of that character in Alberta and Saskatchewan.

MR. BARLOW.—With reference to title in unsurveyed lands under the existing coal mining regulations you have to apply by township and range and section. In unsurveyed lands it is impossible to do that. You have really to get an order in council, a permit from the minister, you have to get government permission.

Q. Have you personal experience of any difficulty, or do you know of any case?

MR. BARLOW.—Well, there is the case even now in the unsurveyed territory south of the railway—

Q. South of what railway?

MR. BARLOW.—Canadian Pacific Railway.

Q. In what province?

MR. BARLOW.—In Alberta, where they are actually paying for the land before they can get the land because it is not surveyed and they do not know actually where that land is. But under the regulations they have to pay for the lease and they cannot get the land, the work of survey is so difficult there that it sometimes takes more than a year to make them.

By Mr. Turriff:

Q. I would like to ask whether under the Ontario Mining Law at the present time the surface rights do not go with the mineral.

APPENDIX No. 5

Mr. CLARK.—The surface goes under the patent except where it is specially reserved, and in certain townships under the grants to the settler the minerals go with the surface.

By Mr. Congdon:

Q. That is like the California law?—A. Yes.

The CHAIRMAN.—I think there is in the Ontario statutes a provision by which the explorer can acquire mining rights even where the patent had gone in the ordinary course under certain conditions.

By Mr. Smyth:

Q. Mr. Clark is familiar with the mining laws of Ontario and also with regard to the matter spoken of a little while ago of dividing the mining lands from the agricultural lands as regards the department. Now he is, of course, well aware that in Ontario the Minister of Lands and Mines has two deputies under him, one of whom has jurisdiction over the lands and the other has jurisdiction over the mining lands, and he might give us the experience, from knowledge, how that works out in Ontario?—A. I might say that in Ontario they have a deputy minister who deals with lands, who is a great expert on all questions arising out of timber, Mr. Aubrey White; and they have separately from him a Deputy Minister of Mines, Mr. T. W. Gibson, who has made a very careful study of the whole mining problem, and the experience there has been that it is of great advantage to have a separate deputy who is in sympathy with the mining men and who to a large extent has the means of acquiring a knowledge of their requirements and one who is constantly, as Mr. Gibson is, dealing with the mining community.

By the Chairman:

Q. Then your view is that under that regulation and with that plan it has worked well?—A. It has worked well to have it separated, yes; that is one man cannot be familiar with both in the nature of things.

Q. I will put the question this way: Would you say that it has worked better by having two deputies under one minister than to have two deputies under separate ministers?—A. They have never had such a division of the department, there has been no experience there with two ministers, but formerly it was all under one deputy, both lands and mines.

Q. Pardon me, they did have that experience. Formerly the Minister of Crown lands dealt with the Crown lands while the Commissioner of Public Works, as he was then called, dealt with the mines.—A. That was before my time.

Q. That was some years ago, of course?—A. I have had no experience about that.

By Mr. Congdon:

Q. With reference to possible conflicts of titles between different minerals, it is a very common thing to find gold, silver and copper in the same grant, that was in the Yukon; for instance you might have a placer grant for the same ground as a quartz grant was made. Have you thought out the desirability of giving all mining rights in one title, or of keeping them separate?—A. Of course they can be kept separate as they are in the lead mine districts in England where only the lead goes with one grant. In my idea it is better to let one man, if he has found mineral, have all the minerals.

Mr. CRAIG.—That was dealt with satisfactorily under the United States Act, as between placer claims and lode claims.

By Mr. Congdon:

Q. You might have a half a dozen mining rights for the same land?

8-9 EDWARD VII., A. 1909

Mr. CLARK:—It is quite feasible to define that, but it will have to be done with great care, but I should say that where a man has found any valuable mineral it is more in the interests of the development of mining to give him all the minerals.

Witness retired.

Mr. R. W. BROCK called.

By the Chairman:

Q. You might tell the committee what your position is?—A. I am director of the Geological Survey. I have had a varied experience in connection with mining in British Columbia, having done a good deal of work for the last twelve or thirteen years in the mining camps of British Columbia, and having associated with mining men I have become familiar with the conditions under which they work, and with the character of the laws they would like to work under. There are one or two points in connection with the leasing which I do not think were mentioned, and to which I would like to refer. While it is quite true that in the Northwest provinces there is some complaint made by mining men in connection with the leasing system, I do not think it is so much against leasing as a system as against particular regulations governing leases in the Northwest provinces. In Nova Scotia, for example, both the coal mining and lode mining are carried on under a system of leasing, but the conditions there are such that the title is, I think, quite as good as a freehold title. Properties are held there and I think they are sold quite as readily as if they were freehold. As long as the conditions for leasing are such that a person has absolute possession of the property, then he has all he requires for practical purposes.

By Mr. Congdon:

Q. That is not quite true, because when the Dominion Coal Company were getting incorporation the Nova Scotia legislature had to pass a special Act with reference to their title.—A. That was, of course, a matter of detail as to the length of time and the conditions under which the lease should be made. In the Australian provinces they also have a system of leasing. I was talking to Mr. Marriott, one of the visiting British engineers last year, he is the mining expert of the Werner-Beit Company, which is one of the largest mine operating firms, and he has had a large experience in all parts of the world, and I asked him, from his experience of the different mining laws, which system he considered the most satisfactory. He expressed the opinion that under proper provisions he thought the best system was the leasing system, for the reason that when the miner is through with his lease, automatically the property returns to the government, so that the title was always perfectly clear.

By the Chairman:

Q. Might I ask, did it occur to you at all, that that gentleman being the representative of a very wealthy corporation it would naturally be to their interest to have just such a system, and that while they might view it with favour it would be viewed quite differently by men of less means?—A. I mentioned that to show that capital is not necessarily opposed to leasing. It seems to me that the lease can provide for the man of less means, that would be merely a matter of provision. I do certainly think that the man who discovers a property should have it, and he should have it just as long as is necessary for him to properly develop it or to dispose of it.

By Mr. Turriff:

Q. But, Mr. Brock, would not that practically mean a perpetual title?—A. Yes, I think it ought to be perpetual in this sense, that a man or company should be able to hold it just as long as he or they may want it.

APPENDIX No. 5

Q. If he decided later on to drop it it would be because it was absolutely of no value, and if that were the case it would be practically of no value for the government to have it back. Would it not be more satisfactory to make it a fee simple in the first place?—A. No, for this reason that it does not mean that it is of no value at all, it only means that it is not considered valuable at the present time.

Q. For that purpose?—A. At the present time, but you cannot tell, twenty years hence that property may be very valuable. This has happened sometimes in Ontario. In Eastern Ontario where the mining rights have been disposed of sometimes with the surface rights, or if the mining rights alone have been disposed of some neighbouring farmer will pay the taxes on that property for the sake of holding it for grazing purposes or something of that kind, but the man who had the mining rights has disappeared absolutely. Now that property is made valuable because, we will say, it has been discovered that corundum is there, but when it was taken up originally corundum was not known. But if a person wants to get it for the development of the corundum now, they cannot do so, because they do not know who owns the mining rights, and no person will spend his money on the development of a property unless he knows he is going to have it when he has developed it. But he will not develop it if there is a possibility of some person coming in and taking it from him.

By the Chairman:

Q. Would you not consider that a very rare case, where a man could not be found, or his legal assigns or heirs? That may possibly have occurred, but it is rather an exceptional case I think?—A. No, I do not think it is exceptional. That has happened and it does happen quite frequently. Of course sometimes the man could be found if a person took the trouble to search diligently for him, but generally when it is found that the mineral rights have been disposed of the prospector drops the property, does not go any further with it. It frequently happens that land is taken up for one mineral that does not develop well, and all interest is lost in it by the owner, but later, perhaps some years later, some one finds another valuable mineral in the district, which makes the old ground valuable for prospecting. I could mention numerous instances.

Q. Is there not a great danger from this point of view—a man makes a discovery and he expends what means he has, it may be only a few hundred dollars or it may be quite a few thousand dollars, and he finds himself unable to go on at that particular time or to interest capital to assist him, and he has to turn his attention to something else. In the meantime illness overtakes him or some misfortune, do you think it would be a very great hardship to confiscate that man's property?—A. I think it would, sir. I think a person ought to have the property as long as he really wants it.

Q. Are there any complaints in your department regarding the coal mining regulations in Alberta, and do you think that the system of lease there at the present time has given satisfaction from your point of view?—A. I would rather not answer that question. I think there may be some hardships in connection with it; there are cases that have come under my notice. I sometimes have correspondence with men that are operating there and they would like to deal with some person that is familiar practically with the coal mining conditions—they sometimes write in and ask us to explain conditions to the department that is charged with the administration of the law.

Hon. Mr. TEMPLEMAN.—You understand that is not in Mr. Brock's department.

A. With regard to the surface rights and the mining rights, I do not think there is any trouble in keeping them separate, it is merely a case of providing the machinery for determining the amount of compensation that the owner of the surface rights should have for the small amount of land required to operate the property.

Hon. Mr. TEMPLEMAN.—They are separate in British Columbia.

By Mr. Congdon:

Q. There might be a reservation in the title not merely of the mineral rights but of so much of the surface rights as are required for mining purposes?—A. The free entrance to the property and so much of the surface as may be necessary for the proper working be reserved, and then there should be machinery to determine how much is necessary and what price should be paid.

By the Chairman:

Q. That will only affect the land already alienated from the Crown, but take the case of 95 per cent of the mining area which is still under the control of the Dominion and has not yet been granted at all. In that connection should there not be a separation in the granting of patents between the surface and the mineral rights?—A. That is my opinion.

By Mr. Turriff:

Q. Do you consider that the regulations for leasing the coal lands are more satisfactory than selling the coal lands?—A. Well, I think it is a matter of the conditions under which it is done. I think that the miners would be glad if they could get a freehold in the Northwest provinces. I think they would prefer that to the present regulations regarding leasing.

By the Chairman:

Q. Which do you think, in the public interest, apart from the desire of the miner, is the best way to protect the public interest?—A. Well, I think myself if the conditions are made sufficiently favourable, and sufficiently easy, and they properly provide against these cases of hardship which might arise, that a system of leasing is better because automatically the rights come back to the government when the mine is abandoned.

Q. I think you heard the remarks of Dr. Barlow here this morning in which he stated that in his opinion, if I understood him correctly, there should be a dividing line; that at a distance of 20 or 30 miles from the lines of railway or from water communication if the leasing system prevails as at present there will be no incentive for the explorer to make discovery, and development will be retarded on that account, that it would be better beyond such distance to deal with the discoveries in the meantime by patent, fee simple, and that within that area of 20 miles from the railway it should be dealt with by lease. That has, in some sense, been done in Ontario; but in Ontario they adopted this principle, that within four miles they charge a certain sum, and within eight, or six miles, I am not sure which, they charge a less sum. The higher sum is charged within the first four-mile belt, and in the next belt they charge a less sum, and in the third belt, extending twelve miles back, they charge a smaller sum still; of course there was a minimum charge throughout the province. What would you suggest, anything of that kind?

Dr. BARLOW.—As a matter of fact in that connection I was not in favour of leases at all, because it is not the public who develop that country, it is the man who goes there to explore who develops it.

By the Chairman:

Q. From your standpoint it should be dealt with by fee simple and not by lease?

Dr. BARLOW.—With conditions that were not too onerous as to work, and then make provision by an acreage tax so that if they did not go ahead, and they did not pay to the government this acreage tax, after a certain time for development it should go back to the Crown automatically. You want to attract capital, but you can never attract European capital by leases, they have them all over Europe and they are afraid of them.

APPENDIX No. 5

By Mr. Rhodes:

Q. Wherein do you differ really from Mr. Brock? You say that the land should be given in fee simple, but with certain conditions which if not complied with the land should go back to the Crown; what is the difference between that and a lease?

Dr. BARLOW.—I wanted to make it plain that I was not in favour of leasing.

Mr. CONGDON.—In the United States where we get a good deal of our capital they have these patents, which they understand, they have not the leases and they do not understand them, but they do understand the patents. I agree that there is not much difference between them in reality.

Mr. J. M. CLARK.—In the one case the government would have to act and in the other case the individual would have to take action if he thinks his land is wrongly taken away from him. If you have it automatic in the case of a lease you cannot absolutely provide for any hardship, whereas in the other case it is optional with the government whether they will enforce the forfeiture or not.

Mr. RHODES.—Of course your automatic provision is open to reproach. I know in Nova Scotia when a lease expires it is open to the governor in council to look into the merits of a case, and if he thinks that it is not right for the party to have it then it goes back to the company that originally held it. As a matter of fact they have had to introduce special legislation to enable mining companies to hold their properties which had been gobbled up by individuals.

The CHAIRMAN.—There is this difference too, that in very many cases it is necessary to bond the property or to raise capital by selling preferred stock which is almost in the nature of a bond, and under a patent there is a definite assurance of title for the investor, while under the lease there is room for unfair dealing in the management of the mine. Supposing there are a dozen shareholders interested in the mine, and it is managed by a certain number of that body elected in the ordinary way, and they choose to be dishonest; they might let the lease lapse.

Mr. SMYTH.—I do not think the miner is dishonest.

The CHAIRMAN.—Nor do I think so, but I am putting it as a possibility, and, of course, a very remote possibility, but I think I know of cases where there have been grievances of that character. I think that is the question whether a title in fee simple is not more acceptable security for the investment of capital than leasehold. Have you ever thought of it in that way?—A. Yes, I have, but I think that with the suggestion of Dr. Barlow it amounts to almost the same thing, and I think if the title is granted in fee simple there should be that acreage tax because then of course the non-payment of the tax will bring it back to the Crown. In the case of leasing a prospector always knows who owns an abandoned property and the terms on which he may acquire it.

Mr. RHODES.—I may say that I have had some little experience in connection with mines in Nova Scotia, and with the possible exception of the case of the Dominion Coal Company, referred to by Mr. Congdon where by special legislation the lease was made for 99 years, all the other mines are held under twenty years' lease, renewable. They issue bonds and it does not seem to interfere with the value of their bonds at all. The companies all have leases for twenty years and they have the right to apply within a certain period of the expiration of the twenty years for a renewal so that it is practically perpetual.

The CHAIRMAN.—I know the law in Nova Scotia in a practical way, and I do know of investors that will not, under any inducement, invest their money upon property held under a title of that character.

Mr. RHODES.—They get their money pretty freely there.

The CHAIRMAN.—That may be, I do not know about that, but let me ask you a question, although it is perhaps hardly germane to the subject under consideration.

8-9 EDWARD VII., A. 1909

But Nova Scotia has some large smelting furnaces for the manufacture of iron and steel, but Nova Scotia, as I am informed does not produce the ore, the raw material from which that manufacture takes place.

Mr. RHODES.—In one particular instance they do not, but there is iron ore in abundance in Nova Scotia and it is used, a large percentage of native ore is used there.

The CHAIRMAN.—To what extent?

Mr. RHODES.—I cannot give you the amount, but the Drummond works use it and also the Nova Scotia Steel, and the Dominion Iron and Steel, but they are using rather a small quantity of it.

The CHAIRMAN.—They may be doing so within the last few years.

Mr. RHODES.—I could not tell you what percentage.

Mr. HERRON.—Could not a coal mine be conveyed to the prospector or the company in fee simple and then continue on by regulation, or perhaps it could be inserted in the original deed, that a man would pay a graded rental and have that rental on a sliding scale as mentioned by some of the witnesses say within a radius of four miles from a railway? The great trouble in connection with operating a coal mine is that until you get a railway actually to its mouth, the mine is only a prospect up to that stage. Before you get the mine into an operating state it will require the expenditure of thousands of dollars, perhaps half a million or more. We must arrive at some regulation, in my opinion, by which we can introduce capital and by means of which that capital will have some permanent hold on the property before so large an amount of money can be invested. Otherwise you will never develop a coal mine. Several suggestions have been made whereby the land could be conveyed in fee simple or at some nominal price to the operator and then a graded rental, or something of that kind, could be paid until such time as a railway was built to the mine when it would become an operating mine and then the government would have the royalty to fall back upon. Could we not adopt some plan of that kind?

The CHAIRMAN.—I think we have a very good opportunity to protect the public interest in regard to coal mining because there has not been very much coal land up to the present alienated from the Crown. In Pennsylvania, if my information is correct, so far practically as the mining is concerned the railways control the whole situation.

Mr. RHODES.—So far as the public is concerned.

The CHAIRMAN.—So far as the public is concerned too. I am told, and I have very good authority for the statement, that you may buy the very best of coal lands at a pretty low figure but you cannot make any use of them under the laws and under the conditions which exist there. It is practically determined by the railway company whether that property be worked or not. I hope we will be able to steer clear of that difficulty in Canada.

Mr. RHODES.—That difficulty was brought about in the United States by getting the coal lands in fee simple. A number of the gentlemen examined this morning spoke of giving these lands in fee simple. I think that is of very little use at all.

The CHAIRMAN.—The trouble is not to get hold of the coal lands. For instance, I have information that you could buy the best coal lands for about \$200 an acre. Now, if that is the case there is no difficulty in obtaining the land, the difficulty is to get the coal to the market. In this country we are retaining control of transportation through the Railway Commission. I think that is one thing this committee could very well take up when we come to deal with this subject, and recommend that such control be vested in the board as will make it certain that the very great monopoly evil which exists in the neighbouring country shall not obtain a footing in Canada.

APPENDIX No. 5

Mr. TURRIFF.—I might say, Mr. Chairman, that the Railway Commission is regulating the freight on coal. In my constituency we have what is known as the Souris coal fields. It is a lignite but is quite a good quality of coal and supplies the settlers in Southern Saskatchewan and Manitoba. About 200,000 tons are mined in one mine and probably 50,000 tons in other mines. We will say about 300,000 tons are mined annually. A complaint was forwarded to the Railway Commission from a little town in my constituency that the railway was charging as much for a draw of 30 miles as they were charging in other places for a haul of 100 or 130 miles. The Commission dealt with the subject in February last and reduced the freight rates. So they are, you see, at the present time regulating freight rates. They made the railway company put a rate on coal and graded it so that places where there is a short haul pay less than places where there is a long haul.

The CHAIRMAN.—I am very glad to hear that. I was not aware that the Commission had taken that action in February. My opinion was that if the Commission had not that power they should be vested with it.

Mr. TURRIFF.—They have got the power and are exercising it.

The CHAIRMAN.—I called attention to it because it is pretty much the whole question so far as coal and iron are concerned.

Mr. TURRIFF.—In Mr. Herron's part of the country it is largely a question of freight rates to obtain the use of the market for that coal.

The CHAIRMAN.—Is there anything else we need to take up?

Mr. RHODES.—What are you going to take up at the next meeting of the committee? Are any witnesses summoned for the next meeting?

The CHAIRMAN.—That is a thing we should settle now.

Mr. RHODES.—Mr. Maddin was speaking to me and he told me that he had a suggestion that the committee take up the existing mining regulations section by section with a view to their being made uniform throughout the Dominion. I bring up the suggestion in his absence and give it my own personal endorsement.

The CHAIRMAN.—Do you make a motion to that effect?

Mr. RHODES.—I make the motion that we consider at our next meeting the existing mining regulations section by section.

The CHAIRMAN.—It is moved by Mr. Rhodes that at the next meeting the committee take up the mining regulations, and the mining law affecting the Yukon, and consider them section by section with a view to reporting to the House as to the advisability of making such changes as are necessary or of drafting a Mining Act.

Mr. RHODES.—A uniform Mining Act.

The CHAIRMAN.—With a view to obtaining uniformity as far as may be possible to do so.

Motion agreed to.

The committee adjourned to meet at the call of the chair.

8-9 EDWARD VII., A. 1909

MONDAY, May 17, 1909.

The committee met at 4 o'clock p.m.

The CHAIRMAN.—There is a communication here from Mr. J. B. Tyrrell, perhaps it will be just as well to have it read.

Mr. HERRON.—It is, I suppose, in line with what he gave to the committee when he was here, and perhaps it will answer the purpose if we place it on record without reading. (See page 65.)

The CHAIRMAN.—Very well, we can dispense with reading it, but it will form a part of the record.

Mr. Minister and Gentlemen of the Committee.—I have been pretty well tied up lately, and I hurriedly made a memorandum this morning, it seems to me that we might take up the different subjects which this memorandum suggests. With your permission I will refer to it and then it will be for the committee to determine whether it should be taken up or not. I might say that I have in my hand the Act establishing the Department of Mines, and I think that the suggestions contained in my memorandum are quite in harmony with it, and that it is the duty of the committee to deal with some of the suggestions made and they are some of the very first things we should deal with: the first being the Department of Mines properly established. The Act says:—

‘There shall be a Department of the Civil Service to be called “The Department of Mines,” which shall be under the control and management of the head of one of the present Departments of the Government of Canada, who shall be named from time to time for that purpose by the Governor in Council, and who shall be called “The Minister of Mines.”’

That is section 3, and section 4 reads as follows:—

‘The Department shall administer all laws enacted by the Parliament of Canada relating to mines and mining, and shall also have the management and direction of all subjects assigned to it by the Governor in Council.’

Subsection 2 of section 4 is as follows:—

‘Wherever, under the provisions of this section, the management and direction of any subject is transferred from any other department to the Department of Mines, the Minister of Mines and the Deputy Minister of Mines shall be substituted for, and have all the powers and perform all the duties of the Minister and Deputy Minister respectively, of such other department, as defined and provided by the Acts and regulations relating to such subject.’

It is quite clear, that at the time of the passage of this Act the intention of parliament was to transfer to the Department of Mines all subjects that could be properly administered by that department. I will even venture to read section 5 and section 6, and although perhaps a little long, they will just give an idea where we are at, and lay a foundation for this memorandum. Section 5 reads:—

‘The Department shall consist of two branches, one of which shall be called the Mines Branch, and the other of which shall be called the Geological Survey.’

Then section 6 reads:—

‘The functions of the Mines Branch shall be—

‘(a) To collect and publish full statistics of the mineral production and of the mining and metallurgical industries of Canada, and such data regarding the economic minerals of Canada as relate to the processes and activities connected with their

APPENDIX No. 5

utilization, and to collect and preserve all available records of mines and mining works in Canada.

‘(b) To make detailed investigations of mining camps and areas containing economic minerals or deposits of other economic substances, for the purpose of determining the mode of occurrence, and the extent and character of the ore bodies and deposits of the economic minerals or other economic substances.

‘(c) To prepare and publish such maps, plans, sections, diagrams, drawings and illustrations as are necessary to elucidate the reports issued by the Mines Branch.

‘(d) To make such chemical, mechanical and metallurgical investigations as are found expedient to aid the mining and metallurgical industry of Canada.

‘(e) To collect and prepare for exhibition in the museum specimens of the different ores and associated rocks and minerals of Canada and such other materials as are necessary to afford an accurate exhibit of the mining and metallurgical resources and industries of Canada.’

Now, that shows there was a pretty wide scope of authority given, and I think that the intention of parliament was to have the Department of Mines fully equipped to deal with all the branches of mining, and the administration of all legislation in connection with it that might be necessary from time to time.

I will read the memorandum and then the members of the committee may feel disposed to discuss and take some action concerning some portions of it. First, let me say that if we do not move in the matter now and provide machinery by means of which the Minister of Mines will be enabled during recess to authorize the framing of a statute or mining law embodying such views as he may obtain, action of this kind must be deferred until next session. When that time arrives it will not be possible to gather information, frame a statute based upon that information, thoroughly thresh out the question and definitely agree upon and recommend to the House something in concrete form to be passed as an Act of Parliament. But if, during the recess, a Bill to give effect to the desired objects were drafted, we could take it up at an early stage when next we meet, discuss the proposed measure clause by clause, and ultimately get it into such shape that we could recommend its enactment by parliament. Therefore, unless we now decide to recommend that parliament confer upon the minister authority to have such a Bill framed—a delay of two years will in all probability take place. I think we should make every effort to have prompt action taken and so avoid that delay.

Mr. CONGDON.—Has any resolution been introduced in the House with regard to the appointment of a subcommittee for the purpose suggested?

The CHAIRMAN.—Not yet, but it is proposed to have a subcommittee or commission appointed. That is suggested in the memorandum. It is in rather crude shape but if the committee are agreeable it can be recast or a resolution can be drawn up and presented in more suitable form to the House. However, these recommendations are perhaps sufficient for the purpose of discussion.

First of all it is proposed that we should recommend:—

‘That in future all patents and leases of land, issued or granted, contain a reservation of all mines and minerals——’

Mr. CONGDON.—That is done now.

The CHAIRMAN.—‘and that all patents or leases of lands shall contain a clause to the effect that such patent or lease is subject to the provisions of the Mines Act——’

The Act when drafted will provide for the entrance of the explorer upon the lands subject to the payment by him of compensation to the owner for any damages he may cause—

‘in respect to the working of the mines as distinguished from the ownership or occupation and working or use of the soil and surface area contained in the patent or lease.’

8-9 EDWARD VII., A. 1909

Mr. McINTYRE (Strathcona).—That is all provided for at present.

The CHAIRMAN.—That may be, but if we pass a law such as I have indicated we must make provision for these things. At present they are not covered by any statutory enactment but provision is made through order in council.

Mr. McINTYRE (Strathcona).—You have reference to Dominion lands merely?

The CHAIRMAN.—Certainly, we cannot deal with other lands. Then I propose that we should further recommend—

‘That all patents, leases or titles to mining lands or mining rights, be in future issued by the Department of Mines subject to any general law or mining regulations in force.’

If these recommendations were carried out it would mean that there would be a separation of the surface from the mining rights or interests under the surface, and that the Department of the Interior, or other department charged with the duty, would issue the title to the surface of the lands—agricultural, timber or otherwise as the case might be—but any one requiring a title to the minerals underneath the surface would have to go to the Mines Department for it. There is a clear distinction made in that respect thus putting an end to the present roundabout method of procedure of obtaining a title which results in a great deal of delay and confusion. Explorers and others requiring mining rights and interests would soon acquire a knowledge as to the proper authority to apply to for a title and the department could facilitate that procedure by issuing leaflets of instructions. By this method the department would keep itself in touch with mining progress and thoroughly up to date. At any rate such is my view.

Then I propose the following as the third recommendation:—

‘That a mining law should be enacted that would embody such portions of the mining regulations as are deemed to be useful and would also provide conditions under which, in the case of discovery of minerals by the owner of the surface, such owner shall be entitled to claim a patent for the mining interests involved in the said lands upon compliance with the conditions of the Mines Act.’

That is the owner of the surface would not get the title to the minerals in his patent, but if he wanted the mining rights he could apply to the Department of Mines and obtain a title on the same conditions as any one else; he would have the first right if he were the first discoverer.

‘And which will also provide that in case of discovery by a person other than the owner of the surface of any lands hereafter patented or leased, the discoverer may acquire upon payment of such compensation for damages as might be agreed upon between the parties, or, in default of agreement, as might be determined by arbitration or otherwise, so that the mines of whatever character may be worked with as little inconvenience to the owner, or lessee, of the surface as circumstances will admit.’

That is a recommendation dealing with lands that are hereafter patented, and if we have the reservation for the explorer to enter upon lands and inspect them, upon paying the necessary compensation for damages, it seems to me we would have the requisite machinery for dealing with lands that are vested in the Crown. But that would leave untouched a rather difficult question and one that should not remain unprovided for. In my opinion all mining lands and mining interests should be on an equal footing, so I am making in this memorandum a suggestion to deal with lands that have been heretofore patented. The committee will have to decide how far they think they would be justified in taking any step in that direction.

I propose we should further recommend:—

‘That a provision be made in the Mines Act by which land heretofore patented or leased may be subject to exploration, and in the event of the discovery of minerals by a person other than the owner of the surface, such discoverer would be entitled to

APPENDIX No. 5

obtain the right to work the mines subject to payment of a percentage also to the conditions set out in the preceding paragraph—'

That is upon paying compensation for damages caused by entering upon the lands to explore, and, in accordance with the machinery which will be provided in the Mines Act, also compensation for any lands that he might take, such compensation to be paid before proceeding with actual mining should the explorer decide to do so. 'provided that in addition to any compensation for damages which may be agreed upon or determined as the case may be, the owner or lessee of the surface—'

That is of the surface of lands heretofore patented.

'shall be entitled to share in the profits of the mine to the extent of the percentage which may be provided by the Mines Act in respect to the various classes of minerals the winning of which the Act may provide for.'

In the case of lands still to be patented, lands not now alienated from the Crown, but to be hereafter patented, the owner of the surface will have no vested rights, because there is to be in the patent or lease a reservation, that is the case as to a good deal of the land already sold, there is I believe a reservation, but there is still, I am informed, a considerable area of land previously alienated in which there is no reservation; and as to these lands it will be noticed I propose that in addition to the compensation that the man (in whose patent or lease there is a reservation) would get for his land, or for the right of exploring on the lands. The patentee or lessee in whose title there is no reservation is to get an interest in the mine; that is, he is to get a share of the profits in the mine because he is giving up a vested right. I do not think he will be seriously prejudiced by such a condition, and it would make the mining law general in its uniformity throughout the country. My recollection is that such is the law of France, the law of Belgium, the law of Germany and the law of Sweden. If I am not mistaken similar laws have been in operation in those countries and have worked well as far as I know.

Then I have some further recommendations here:—

'And would further recommend that the Minister of Mines select a subcommittee or commission not exceeding three who may be given the powers of a Royal Commission.'

I do not know whether that is the right form or not, but the idea is to appoint a Royal Commission, and I put it in that form; however, we can discuss it later.

'(a) To prepare an Act for the regulation and sale or lease of mining lands and mining rights, and other matters connected with mining and the treatment of ores.

'(b) Keeping in view such orders in council relating to mines and minerals and the granting of titles and leases of mining lands as are now in force; also the provisions of chapter 29, Statutes of Canada, 1907, "An Act to create a Department of Mines;" also the recommendation under the head "Minerals" contained in the declaration of the North American Conservation conference, dated at Washington, D.C., February, 1909;'

Honourable gentleman are familiar with that, it is very concise, and is a strong recommendation, and I think it is along the right lines.

'also resolutions passed by the Canadian Mining Institute at their annual meeting, dated March 11, 1909.

'(c) Also the statutes of the various provinces of Canada relating to mines and minerals. With power to employ such persons and make such investigations as they may deem necessary in Canada or elsewhere, and with power to send for persons and papers.'

That is the whole matter, and it is now before the committee for discussion, if the committee decide to take it up.

Mr. McINTYRE (Strathcona).—Regarding most of the provisions which you have enumerated in that memorandum, I think, as you remark, they are nearly all taken

8-9 EDWARD VII., A. 1909

up in the present regulations and orders in council. With regard to the suggestion to separate the mining rights from the surface rights altogether, having them under different departments, I can only speak of the land in my own immediate district, and so far as that is concerned all that land has a bed of coal underlying it, every acre of it, and everybody is perfectly conversant, everybody knows full well, that it only requires digging down deep enough in order to come to a seam of coal. If you separate those two the chances are that the surface right will be very materially prejudiced by the mining right, that is, they will not be handled with the same readiness and ease as if they were both operated by the same department. Then, again, if my memory serves me right, in connection with the Canadian Pacific Railway lands the coal right goes entirely with the surface right. I can only speak of coal because that is the only mineral I am particularly interested in in my constituency, but with regard to the Canadian Pacific Railway land grant, and also with respect to the Hudson Bay Company's lands, they all carry the coal rights; that is the case also in regard to all ordinary patents issued before 1887, if I remember aright. I think Mr. Herron will bear me out in that—

Mr. HERRON.—1887, I think, is the date.

Mr. McINTYRE.—If you, in these Acts, undertake to take these rights away from these people—recollect that there are hundreds and thousands of acres of land in that country that are to-day worth double the price of what they would be if the mining right did not go with the surface right, and in certain sections land that sold two or three years ago for \$10 per acre would sell for \$500 per acre to-day, with the mining rights, because they are easy of access to the river, and it simply requires burrowing from the bank to get the coal. I do not think you ought to interfere with the rights that are already established. I cannot remember all your points, but in regard to the question of separating the title to the surface right from the title to the mineral right, the adoption of your suggestion would give rise to a great deal of difficulty.

The CHAIRMAN.—If I understand aright the practice and the regulation of the department now is that with regard to lands not sold the surface and the mineral rights are treated separately.

Mr. McINTYRE (Strathcona).—The rights are separate, that is true, but what I am getting at is that if they are administered by two departments it will widen the separation between them and give rise to difficulty.

The CHAIRMAN.—All that I am trying to do is to consolidate it in the Department of Mines, instead of having it administered by two departments.

Mr. McINTYRE (Strathcona).—But your contention is that the surface rights are sold to-day without reference to the mineral rights, which is not exactly true, they are sold separately, but with a proviso that the owner of the surface rights shall have the first claim on the mining rights. Your point there is that there should be a condition of actual discovery before that right is exercised, but it does not require discovery in our country, that is my point. The surface right and the coal right are not entirely separated in the case of the person who has a patent at the present time. The man who has the patent can get it under the regulations whereby when the mining right and the surface right were separate things he can prevent any prospector who has secured the coal right from coming on those lands, but, of course, he must take advantage of that regulation within a certain definite time, or he himself cannot get it.

The CHAIRMAN.—I think that is a matter largely of detail, which can be provided for when the Bill is drafted, I have only given the bald headings in this memorandum. Where the man to-day has the patent of the land, given with the understanding that he had all that is beneath it, and therefore had rights that this Act would interfere with, it seems to me that the Act should provide and the practice should be that the

APPENDIX No. 5

Crown should give that man his patent to the minerals without charging him anything, or, as the case may be, very little, in order to get uniformity. I think from the evidence we have had here, and from the information that has reached the committee that there is a difficulty, there is an entanglement, there is the case of parties who have been here for three months trying to get a title, and who have gone away without it. There ought to be some machinery by which a man might get a title to mining lands without difficulty.

Mr. McINTYRE (Strathcona).—Was that a case of coal mining lands?

The CHAIRMAN.—Yes, it is a coal mine in Alberta—that is more than a year ago and he has not got his title yet.

Mr. McINTYRE (Strathcona).—Remember you are going to get the machinery of government into a very great difficulty if you undertake to effect that, because the settler, who is the surface right holder considers that he has the first right to the coal underneath.

The CHAIRMAN.—He must be protected in his rights.

Mr. CONGDON.—The regulations governing the coal mining lands formerly did enable you to get 320 acres in order to get coal, but these regulations were rescinded in March, 1907.

Mr. McINTYRE (Strathcona).—My point is this, that he would acquire prior claim to the coal right by purchasing the surface right to-day. He can—

Mr. CONGDON.—No, he cannot. It just amounts to this: We have two separate kinds of lands. One kind consists of lands already granted under patents which give to the patentee either the full mineral rights or substantially the mineral rights. The other kind consists of lands that are being granted under patents now issued which reserve all these rights to the Crown. And I say that the only way in which this matter can be rescued from the utmost confusion is to have a provision declaring what rights can be granted by the authorities exercising and issuing those rights under the Mines Act, and to have a reservation in the patent co-extensive with such rights.

The CHAIRMAN.—It ought to work perfectly smooth.

Mr. CONGDON.—Exactly. What difference does it make whether the surface rights and the mining rights, which are now distinct, are administered by one department or whether one is administered by the Department of the Interior and the other by the Department of Mines as is proposed. Of course, there is a further difficulty suggested in this recommendation: the difficulty of getting back all these mining rights which have been already issued into the same condition as those which would exist under future patents. As far as I am concerned I am not in favour of any process of confiscation. In every province of Canada they have had the same difficulty through the carelessness with which the early patents were issued and in every such province, so far as I know, there has been adopted a policy by which ultimately all these rights will be got back so as to be in the same condition as they will be under the patents hereafter issued. We will have a further difficulty with regard to this matter: the difficulty of determining the relative rights of the surface owner and the mine owner in different localities. In some parts of the country it would be absurd to allow destruction of the surface in order to extract the minerals; in other parts of the country it is absolutely essential to permit that in order to secure such extraction, and the greatest care has to be taken in distinguishing between these two classes of districts. In the Yukon territory, for instance, mining is the important thing, the surface is a very minor consideration, and you cannot apply to mining in that country the same law as obtains in Ontario where the surface is of very great value. I think the right thing to do is to provide that the proposed commission or committee shall make recommendations as suggested. I do not think it is necessary to make any further recommendations with regard to the reservation in the patent, than that the reser-

8-9 EDWARD VII., A. 1909

vation should be made co-extensive with the mining rights to be exercised under the Act.

The CHAIRMAN.—We might drop that provision.

Mr. CONGDON.—I do not think the country is prepared to go into a scheme of confiscation of rights of that kind.

The CHAIRMAN.—I do not think any confiscation could take place under the recommendation made, because in the first place compensation is provided for, and secondly there is to be an interest in the profits of the mine. That might be made subject to the consent of the owner. It might be better to provide that the taking of the mining rights shall be subject to the owner's consent.

Mr. McINTYRE (Strathcona).—Is it not better to leave it this way: If I want mining rights I have got to come to you for them. The moment I obtain those rights and begin to exercise them I come under the Mines Act.

The CHAIRMAN.—That is the idea I wanted to convey. We must be very careful to see there is no confiscation of the vested rights of those who are now owners or occupants of the land. At the same time we should provide machinery by which the mines can be worked.

Mr. McINTYRE (Strathcona).—At the present time the person to whom the patent for the land is issued has priority of claim to the mining rights.

Mr. CONGDON.—I think not.

Mr. McINTYRE (Strathcona).—I think so under the regulations.

Mr. CONGDON.—I do not think so.

Mr. BURRELL.—I gathered from what the chairman suggested the owner of the surface rights would have the first claim if minerals were discovered.

The CHAIRMAN.—That would be my idea.

Mr. CONGDON.—Then he would have no right because the farmer is the last man in the world to develop mineral lands. It would be wise if you want this industry developed to throw the lands open to the world for investigation and discovery.

Mr. McINTYRE (Strathcona).—I could mention cases, even within this last year, where men have applied for rights as discoverers of minerals but could not obtain them owing to the fact that the owner of the surface rights had priority of claim and the right to operate the mine first.

The CHAIRMAN.—I think that was correct in the case of lands formerly sold.

Mr. McINTYRE (Strathcona).—It is so to-day, at least that is my understanding of the regulations.

The CHAIRMAN.—I do not think so. However, I do not speak from authority not having carefully studied the regulations. Members of the committee will bear in mind that the memorandum which I have presented is not a law but simply a tentative proposition. Before we recommend to the House we must eliminate anything that might be considered objectionable.

Mr. BURRELL.—Your recommendations apply only to Dominion lands.

The CHAIRMAN.—Certainly.

Mr. BURRELL.—How will it work in the case of the railway belt in British Columbia?

The CHAIRMAN.—I think it would apply to the railway belt and to lands not yet patented. Take the lands granted to a railway company as a bonus—the Canadian Pacific Railway, for instance. I see no reason why the Canadian Pacific Railway should not be subject to this law as well as anybody else. The lands for which they have already obtained the patent are out of our control but those still unpatented would come under this Act.

Mr. STRATTON.—Why not have a provision in the law so that the mining rights may be obtained from the owner or settler?

APPENDIX No. 5

The CHAIRMAN.—We are not discussing an existing law, but only the basis of a proposed law. Such an Act if passed would have to provide all that class of machinery. My idea was that if the Minister of Mines were given the right to appoint a committee or commission that body might employ some competent person to draft a Mining Act. The committee or commission after making investigation in various sections of the country would be in a position to advise the farmer of the Act, and when we again meet next session we could take up the proposed measure section by section and dispose of it to our satisfaction.

Mr. RHODES.—This committee has no authority to appoint such a commission.

The CHAIRMAN.—No, such appointment would have to be made by a resolution of the House. Once the House prorogues this committee ceases to exist.

Mr. STRATTON.—I suppose the situation now is that if the settler owns the lands and the miner is desirous of obtaining mining rights, the former may refuse to dispose of those rights until he gets a price which is acceptable to him.

The CHAIRMAN.—That is a difficulty which should be guarded against as far as possible.

Mr. GOODEVE.—The proposition you have suggested is a serious one. You want us to recommend to the House to appoint a commission consisting of three men provided with the necessary authority to travel from place to place and call witnesses and to draft a Bill along the lines suggested.

The CHAIRMAN.—They might employ a lawyer to do the drafting. I do not propose the commission should do that.

Mr. GOODEVE.—It is a pretty large order to recommend off-hand to the House the appointment of a royal commission to conduct an investigation of this kind. It would involve considerable expense.

The CHAIRMAN.—It occurs to me that we either want to do that or report to the House that no necessity exists for this committee.

Mr. HERRON.—What you have stated is in line with some recommendations which have been forwarded to me. Some meetings have been held in the Crow's Nest Pass district. I am not going to read any lengthy report, but I will quote a few lines to show whence these recommendations emanate: 'Some few days ago I was called to a meeting in the town of Coleman, Alberta, by the prospecting miners from the Pass, Bankhead and Calgary, together with some from Lethbridge and Taber, making in all an assembly of 27. The object of this meeting was to set forth the grievances as against the present mining regulations.' I do not think it will be necessary to go into all the grievances of these men, but I might give a clause which sets forth their recommendations.

These are a few points that should be considered, and we thought it would be well to ask you if it would be possible to arrange to have a commission to take this matter in hand. I might say that this is a copy of a letter that was addressed to the Minister of the Interior, with the resolutions. Of course that would mean a commission of at least one practical mining manager, and one practical prospector, together with any party you might think proper to appoint. Then it goes on to state, there are a lot of recommendations that they will recommend, but it shows, that what has already been stated here regarding the appointment of a commission is in line with the views of those men, who are all practical mining men, they want a commission appointed to go on the ground, to see the conditions, and to get the information such as can only be got by observation of the practical working conditions on the ground. I have several letters along that line here, but it is not necessary to take up the time of this committee to read them. I have one letter here from a man showing the conditions that our mining laws are in at the present time. It is a letter from a man named Albert Link, of Mountain Mills, a short distance from where I live. He says:—

8-9 EDWARD VII., A. 1909

'I have been trying to purchase a slate claim on Mill Creek. I applied at Lethbridge.'

That is at the land office at Lethbridge.

'and was told that there were no laws governing slates and shales and that the application would be dealt with on its merits.'

'I am sending a copy of the letter that I am sending to Ottawa by the same mail and would beg you to see what can be done, as I am very anxious to do some development work on the claim. I cannot understand why there should be any bother in getting such a claim. Would you kindly intercede and do what you can.'

'The claim is located on legal subdivision 4, section 25, township 5, range 2, west of the 5th meridian.'

That letter shows that when you make a discovery of minerals in our country there is no way by which you can go to the land office and get a title to the minerals of any description, so you can see that things are not in a very satisfactory way.

Hon. Mr. STRATTON.—There is no doubt that all mineral titles should be in the hands of the Crown, and there should be some special effort made to obtain all the information possible with regard to those mineral lands which would be kept in the department where it would be absolutely obtainable, or accessible, and where any person wanting it can obtain it. A legitimate miner, or prospector, or developer, comes along and he is not able now to ascertain where the mining rights are.

Mr. GOODEVE.—The only point I make is this that the Mining Department has been established, with a Minister of Mines at the head of it, at the same salary as the rest of the ministers, and with a whole department of trained practical men, men in whom we have confidence. Now, the suggestion, if I understand it at all, is that we go over the heads of this department which have been appointed for the express purpose of looking into the mines and minerals of this country, and ask the government to appoint three men entirely outside of these men, to draft and submit a mining law.

The CHAIRMAN.—No, no, we ask the minister to appoint them.

Mr. GOODEVE.—The Act creating the Department of Mines gives to the minister authority covering almost identically the very suggestions that you make. Now, if the department is to be of any good to the country at all, and if the expenditure of the money it costs is to be of advantage to the country, it seems to me that the officials of the department should look into all these questions that come up such as that matter which Mr. Herron has brought up, and should submit, either to this committee or some other committee of the House suggestions as to the legislation required to meet such cases, instead of appointing new men with special expenses and special prerogatives in the way suggested. Have we not men in the department who are special technical men, the best men in Canada, such as Mr. Brock, Dr. Haanel, and other men of that kind? I understand that Dr. Haanel has already gone to Sweden to look into matters connected with mining there and to make recommendations suitable for Canada.

The CHAIRMAN.—The honourable member must bear in mind that we are dealing in this country with representative government, and no class of officials who are not responsible to the people can make laws suitable to the people of this country. Therefore, we give to the representatives of the people, who understand what the people want, the power to make the laws.

Mr. SMITH (Sanaimo).—Do you not think that the department ought to collect all the facts relating to mining, and when you have them all collected it is an easy thing for this committee to put all the regulations needed to govern the mining industry in the form of a statute?

Mr. RHODES.—I may say that I agree with Mr. Goodeve. It seems to me that this is a similar case to that of the Insurance Bill. When that measure was brought

APPENDIX No. 5

down it had been fairly considered by the officials of the department and it contained in a concrete form the legislation which was proposed. That Bill was referred to the Committee on Banking and Commerce, which heard all the parties interested. We should, I think, do the same with respect to these mining regulations. Let the Department of Mines prepare some concrete measure and place it before this committee, we will consider it, as the people's representatives, and will give heed to representations made by interested parties. It seems to me this would be the more practical method. Surely there are members of the staff in the Mining Department who are competent to advise this committee; I am a member of this committee, but I am absolutely ignorant on mining matters, and I think we should look to our officials for advice.

Mr. SMITH (Nanaimo).—It seems to me that you could not collect all this information outside the officials of the department.

The CHAIRMAN.—Nobody is proposing anything of that kind.

Mr. SMITH.—I understood you to recommend that this be done by outside men.

The CHAIRMAN.—This is the recommendation of the mining men of this country at their last annual meeting.

Mr. GOODEVE.—The Mining Department is there to do that work.

The CHAIRMAN.—With all due respect to the honourable member, the Mines Department is not yet established. This mining rights are dealt with by the Department of the Interior, and we are making a recommendation to establish the Mines Department. Let me read this resolution.

Hon. Mr. STRATTON.—We can make a recommendation to the House that the mining rights on all the lands in Canada be placed in the hands of the Mines Department.

The CHAIRMAN.—That is what this resolution says, that is the main point of this whole thing. Let me read this, honourable members may have seen it, but perhaps they have forgotten it. It is a communication forwarding the resolution passed by the Mining Institute of Canada at its last annual meeting:—

‘That the Canadian Mining Institute in annual meeting assembled instructs the council to appoint a standing committee to urge upon the government the necessity of early action with regard to the following resolution passed by the annual meeting held at Ottawa in March, 1908:—

‘Whereas, in view of the increasing importance of mines and mineral lands subject to the jurisdiction of the Dominion parliament, be it therefore resolved, that the Canadian Mining Institute in annual meeting assembled, do hereby memorialize the Dominion government to appoint a royal commission to secure evidence concerning the requirements of the mining industry in this regard, and to draft mining laws to be submitted for the consideration of the Dominion government. And as an argument in support of the appointment of such a royal commission, be it urged, that when a statute to be enacted by the Dominion parliament declares with clearness, conciseness and certainty the laws relating to mines and mining under federal control, such a statute would, as far as local conditions permit, be followed by the various provincial governments, thus ensuring as far as practicable a uniform system of mining laws throughout the whole Dominion.’

And then they passed another resolution:—

‘That the Dominion government take early action to complete the organization of the Department of Mines by transferring to it the complete administration of all mining lands subject to its control.’

Now what I propose is on all fours with these resolutions.

Hon. Mr. TEMPLEMAN.—When the Mining Institute passed these resolutions this committee was not in existence, and I pointed out to them my belief that a standing committee of the House of Commons would probably be able to perform the work

8-9 EDWARD VII., A. 1909

which the institute suggested should be done by a royal commission. They rather approved of that idea and the Mining Institute are not now asking for the appointment of such a commission. It seems to me there are two points involved and a brief resolution would cover the whole ground. First there is the point raised by Mr. Stratton a moment ago as to including within the jurisdiction of the Department of Mines the administration of all mining lands. It is clearly the duty of that department to administer the mining lands of the country. The second point would be to recommend the consolidation and embodiment of all mining laws and regulations in a Bill which could be submitted to this committee at the next session of parliament.

The CHAIRMAN.—That is the idea.

Hon. Mr. TEMPLEMAN.—The Governor in Council has sufficient authority to appoint a royal commission, if deemed necessary, to investigate all these matters and draft a Mines Act such as recommended.

Mr. STRATTON.—Such a commission might co-operate with your department.

Hon. Mr. TEMPLEMAN.—The Governor in Council has ample power to appoint such a commission and I am under the impression there are sufficient funds in our departmental appropriations to meet the expense it would involve. Probably if a royal commission were to be appointed we might have to take a vote at the next session of parliament to pay for their services. There would be no difficulty, however, about employing a lawyer familiar with the mining laws, to draft a Mining Act.

The CHAIRMAN.—That is the important feature.

Hon. Mr. TEMPLEMAN.—And it might be possible to secure the services of one or two expert mining men to assist him. It seems to me that if this committee reports to the House a resolution recommending that action be taken in the two directions referred to we are doing almost everything that is necessary. I do not know that it is advisable at the present time to enter into a discussion as to the details of any mining law. The experts to whom the matter will be relegated will have to determine those, and the committee must pass upon the proposed Bill before it is submitted to the House. I think we should confine ourselves to-day to a simple recommendation to the House that an investigation should be held and a consolidation made of the present mining regulations. Such regulations should be embodied in an Act of Parliament ready to be submitted to us next session.

Mr. SMITH (Nanaimo).—I was going to ask if the Mines Department as it is now constituted needs the assistance of experts either to draft an Act or to make a special investigation. Have you not got the power to do that at present?

Hon. Mr. TEMPLEMAN.—I think so.

Mr. CONGDON.—Our recommendation should be for the governor in council to do it because they have full power to deal with such matters.

Mr. STRATTON.—Did you cover in your remarks the point about recommending to the House that the administration of mining rights be absolutely transferred from the Interior Department to your department?

Hon. Mr. TEMPLEMAN.—The Act creating the Department of Mines is very clear on that point. The administration of the mining lands of the country ought to be placed in the hands of the Mines Department.

Mr. STRATTON.—As a matter of fact is it?

Hon. Mr. TEMPLEMAN.—No.

Mr. STRATTON.—Would it not be better to make that recommendation to the House?

Hon. Mr. TEMPLEMAN.—That is a matter which the Governor in Council should take up whether you make a recommendation to that effect or not.

Mr. STRATTON.—I think it would be a good thing to point it out.

APPENDIX No. 5

The CHAIRMAN.—The Act provides that the Mines Branch shall deal with such subjects as are referred to it by the Governor in Council. The dealing with mining rights and the issue of mining titles has not been referred to it and so far the department has not dealt with these matters. I think the suggestion made by the minister is exactly in line with the resolutions of the Mining Institute.

Mr. GOODEVE.—You have read the resolution passed by the Mining Institute. I may say that I was present at the meeting when that resolution was passed. There were also present representatives of the various Departments of Mines. The Minister of Mines for Ontario, Hon. Mr. Cochrane, said he was delighted to be present at the meeting and hear the discussion, and he would be very glad, as far as possible, to make the Ontario law conform to the other mining laws in force in Canada. What the Canadian Mining Institute understood was that the Mines Departments of the various governments would take up this matter of having uniform laws.

The CHAIRMAN.—All I am proposing is that we recommend to the House that the Minister of Mines be empowered to take steps during the recess to give effect to the wishes of the committee.

Mr. GOODEVE.—I quite agree with that.

The CHAIRMAN.—I think it would expedite matters if the committee would appoint a subcommittee to draft a resolution for submission to the House.

Hon. Mr. TEMPLEMAN.—The committee have decided to recommend the securing of evidence in regard to the requirements of the mining industry, along the lines indicated and to draft a mining law to be submitted for the consideration of the committee. This would be a recommendation to the House.

The CHAIRMAN.—Do the committee think it wise to appoint a subcommittee of three to draft a resolution for submission to the House, because that resolution would have to be presented to-morrow?

Mr. SMITH (Nanaimo).—Why not draft the resolution now and present it immediately?

The CHAIRMAN.—Yes, if you prepare it in suitable form.

Hon. Mr. TEMPLEMAN.—We are quite clear as to what we should recommend, are we not?

Mr. STRATTON.—We should also recommend to the House the desirability of transferring mining rights in lands to the Department of Mines.

The CHAIRMAN.—Yes. That is the first portion of the recommendation contained in my memorandum.

Mr. CONGDON.—I would move as follows:—

‘That this committee recommend that there be assigned to the Department of Mines the administration of mines, including the issue of titles thereto and of all mining lands; second, that an Act be passed consolidating all the laws relating to mines under Federal control; third, that consideration be given to a policy which will have for its object the re-acquisition by the Crown of mining rights heretofore granted in patents of land.’

The CHAIRMAN.—That covers it.

Mr. SMITH (Nanaimo).—That this be a recommendation to the Mining Department.

The CHAIRMAN.—Of course in preparing this resolution to the House the Clerk of the Committee would be at liberty I presume to include in it anything that will make the object of the motion clear.

Mr. SMITH (Nanaimo).—Yes.

Mr. CONGDON.—I move that.

8-9 EDWARD VII., A. 1909

The CHAIRMAN.—You have heard the motion as moved by Mr. Congdon and seconded by Mr. Smith, is it your pleasure that it be carried?

Motion carried.

Mr. HERRON.—What about printing the evidence that has been given before this committee at previous meetings?

The CLERK.—We have not asked permission to print it yet.

The CHAIRMAN.—I think we ought to have it printed; it will be useful information to send out.

Hon. Mr. TEMPLEMAN.—Will the clerk put a recommendation in the report that this evidence be printed?

Mr. SMITH (Nanaimo).—I move that the House be asked for permission to print the evidence.

The CLERK.—That it be printed for the Journals of the House?

The CHAIRMAN.—That is carried.

Committee adjourned *sine die*.

APPENDIX No. 5

To the Chairman of the Standing Committee on Mines,
House of Commons, Ottawa.

The mining law which is best suited to encourage the exploration and development of a country such as Canada, with its vast stretches of remote and unexplored territory, should first of all offer reasonable inducements to the prospector to search for and discover the mineral resources of the country; it should provide him with a quick and easy method of holding mining land and obtaining a title to it on terms which would not be beyond his reach; it should provide that he should be enabled to hold this land as long as he personally might wish to live on it and mine it. In addition, it should enable him to spend practically all his time on his mining property, for the time spent on that property is the only time which is of value to himself and to the country which he is attempting to develop. The calls made on him to attend the government offices should be as few and brief as possible, and the procedure in such offices should be simple and inexpensive.

By thus giving the poor men quiet and undisturbed possession of mining claims as long as they might wish to live on them, many men would be induced to become premanent residents in the most remote parts of the country for there is nothing that will attract a population into any country as quickly as the discovery of precious metals in it, and when a country has had a population drawn into it by this means, a population usually composed of energetic, quick-witted men, men prepared and willing to make use of any of the natural resources with which they may find themselves surrounded, it is certainly good policy for the government to make such laws as will encourage and induce these men to acquire such property as they wish to develop, and become permanent settlers.

To meet these conditions, therefore, a prospector should be obliged to make a discovery, as defined by Mr. Justice Field, of the Supreme Court of the United States, stake out a claim of forty acres on the ground, and record it in the Government Recording Office free of charge. Afterwards, he should be obliged to record that claim annually as long as he continued to live on it, for say six months in each year, paying a renewal fee of ten (\$10) dollars a year.

In case of non-payment, this renewal fee should be doubled every six months and if the total amount was not paid at the end of two years, he should be notified both by personal letter mailed to the recorded address, and by public advertisement, that his claim would be forfeited in six months thereafter if the rent was not paid.

In case the prospector should wish to obtain assistance from others to work and develop his claim, a reasonable time should be given him to accomplish this purpose, say two years, on an annual rental of two hundred (\$200) dollars a year. At the end of these two years he should either go back to live on the claim, as provided for above, and pay his annual renewal of ten (\$10) dollars a year or he should have the privilege of taking out a longer lease as follows.

After a man had spent four thousand (\$4,000) dollars on a mining claim either in actual mining or in the installation of mining machinery, he should be given a lease of it for twenty years, renewable for an additional twenty years, at an annual rental of two (\$2) dollars an acre free from all other incumbrances, which rental in case of non-payment at the proper time, should be doubled every six months and at the end of two years, if the rental was still unpaid, notice should be given to the owner, both by letter and public advertisement, and six months thereafter, in case of non-payment, the property should be forfeited to the Crown.

8-9 EDWARD VII., A. 1909

This lease should be perfectly free from any conditions dependent on the opinions or reports of officials, or from forfeitures from any other cause than the non-payment of rental.

The prospector or miner should not be liable to changes in mining regulations from time to time, by Order in Council. All the conditions should be set forth in plain language in a statute.

J. B. TYRRELL.

